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ORDINANCES

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*Kelly and Whitehill*

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HILLYARD MITCHELL

Loaned to the University  
of Saskatchewan at Saskatoon  
for historical purposes to be  
Returned to the Owner at  
request 5/5/11

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# ORDINANCES

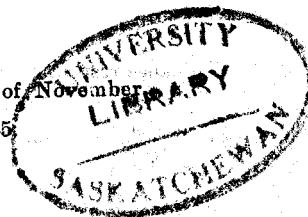
*Hilly and Mitchell*  
OF THE

NORTH-WEST TERRITORIES,

HA 263  
17-7-23

PASSED BY THE LIEUTENANT-GOVERNOR  
IN COUNCIL,

in the Session begun and holden at Regina, on the Fifth day of November,  
and closed on the eighteenth day of December, 1885.



HIS HONOR EDGAR DEWDNEY,  
LIEUTENANT-GOVERNOR.

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REGINA:

PRINTED BY NICHOLAS FLOOD DAVIN,  
Printer to the Government of the North-West Territories.  
1885.

# CONTENTS.

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## ORDINANCES OF 1885.

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No.		PAGE.
1	An Ordinance respecting section 21 of the N. W. Municipal Ordinance of 1884. ....	4
2.	“ to amend and consolidate the Municipal Ordinance 1884....	5
3.	“ to amend and consolidate the School Ordinance of 1884. ....	64
4.	“ respecting Schools. ....	103
5.	“ to amend the Administration of Civil Justice Ordinance of 1884	107
6.	“ respecting duties of clerks of courts. ....	117
7.	“ to regulate the procedure in appeals in capital cases ....	117
8.	“ respecting exemptions from seizure. ....	118
9.	“ to amend the Interpretation Ordinance. ....	119
10.	“ respecting Legal Profession. ....	120
11.	“ respecting Medical Profession. ....	123
12.	“ respecting Poisons. ....	126
13.	“ legalizing by-law of town of Regina. ....	127
14.	“ legalizing by-law of Qu'Appelle Municipality. ....	128
15.	“ to amend and consolidate Ordinance respecting infectious diseases of domestic animals. ....	129
15.	“ to amend and consolidate Ordinances respecting fences. ....	134
17.	“ to amend Ordinance No. 25 of 1884 respecting ferries. ....	135
18.	“ to repeal No. 9 of 1883 respecting stolen horses. ....	135
19.	“ to amend No. 4 of 1883 respecting partnerships. ....	136
20.	“ to amend No. 1 of 1884 respecting herding of animals. ....	136
21.	“ to amend and consolidate Ordinances respecting prairie fires. .	136
22.	“ to amend No. 2 of 1879 respecting dangerous lunatics. ....	138

CANADA,  
NORTH-WEST TERRITORIES.



No. 1 of 1885.

*An Ordinance to provide for the appointment of Deputy-Returning Officers for Municipal purposes, and to repeal Section 21 of the North-West Municipal Ordinance of 1884.*

*Passed 12th December, 1885*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Section twenty-one of the North-West Municipal Ordinance of 1884 is hereby repealed.
2. The Council of the Municipality shall at least one week prior to the last Monday in December by By-law appoint Deputy-Returning Officers, and define the districts or divisions within the Municipality,

14      No. 1 of 1885.      *Deputy-Returning Officers*

where votes are to be polled ; and the Clerk shall on or before the first day of polling, in case a poll is demanded, prepare and deliver to each Deputy-Returning Officer of each district or division a certified list of the persons entitled to vote in his polling division at such election together with a poll book.

5. This Ordinance shall cease to have effect from and after the first day of February, A.D. 1900.

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**No. 2 of 1885.***An Ordinance to amend and consolidate as amended  
the Ordinance Respecting Municipalities of  
1884,**Passed 18th December, 1885*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in council as follows:

1 Unless otherwise declared or indicated in this Ordinance, wherever any of the following words occur they shall have the meaning hereinafter expressed, namely the word:

- (1) "Municipality" shall mean any locality, the inhabitants of which are incorporated, or are continued, or become so under this Ordinance.
- (2) "Council" shall mean the Municipal Council;
- (3) "Land" or "lands", "real estate" "real property," shall respectively include lands, tenements and hereditaments or all rights thereto or interest therein;
- (4) "Electors" shall mean the persons entitled for the time being to vote at any Municipal election or in respect of any By-law in the Municipality, ward or polling sub-division, as the case may be;
- (5) "Chairman" or "Mayor" shall mean the head of the Council, or the person elected to fill that position for the time being;
- (6) "Owner" or "proprietor" shall mean the person who has the ownership or use of any taxable property, or has an agreement for the purchase of the same;
- (7) "Occupant" denotes all persons who possess, hold or occupy any land under any title whatsoever, or even without a title, or are occupying lands of the Crown under any style of location, agreement of tenure whatever;
- (8) "Lot" shall mean the sub-division into which a piece or parcel of land has been divided for purposes of sale into smaller parcels and shall include the buildings and other improvements thereon,
- (9) "Resident" shall mean any male British subject over twenty-one years of age, who has been a free-holder or a house-holder within the area proposed to be established as a Municipality, for a period of three months next preceding the receipt of the petition

by the Lieutenant Governor asking for the establishment of such Municipality, and so far as relates to the qualification of voters at the first election therein, for a period of three months next preceding the day of voting of such election.

2. In any part of the North-West Territories where the boundaries of Municipalities have not been declared by this Ordinance any number of residents within the area proposed to be incorporated, may petition the Lieutenant-Governor asking to be erected into a Municipality. The petition shall set forth ;

- (1) The desire for Incorporation ;
- (2) The area (not being less than two hundred square miles) describing the same ;
- (3) The total number of residents within the area ;
- (4) The proposed name ;

3. And upon proof to the satisfaction of the Lieutenant-Governor that at least two thirds of the residents within the area and whose respective signatures have been duly and properly verified, and that public notice in three different places of such intended application has been given within the area, for at least two weeks previous to the receipt thereof by the Lieutenant-Governor and no opposition being offered to the establishment thereof and there appearing to him no just nor reasonable ground for refusing such incorporation, the Lieutenant-Governor shall proclaim the area a Municipality by the name proposed or some other suitable name. But if the allegations in such petition be disputed by any person or persons claiming to be residents within such area, on affidavit stating the fact, or if it appear to the Lieutenant-Governor that the proposed boundaries of such Municipality are objectionable for any cause then the Lieutenant-Governor shall refer the petition and all matters connected therewith to the Council of the North-West Territories to be by them dealt with.

4. The provisions of the preceding section shall apply to Municipalities, the boundaries of which have been declared by this ordinance, provided that the name and boundaries thereof shall not be changed, and in each case the sum of one hundred dollars shall accompany a petition asking for incorporation, such sum shall be used to defray the expenses attending the erection of the Municipality, and any portion not expended for such purpose shall be, by the Lieutenant-Governor, paid to the Treasurer of the Municipality when formed.

5. From and after the issuing of the proclamation as aforesaid, the inhabitants of such Municipality shall become a body corporate under the name of the "The Municipality of \_\_\_\_\_," (inserting the name of the Municipality) capable of suing and being



sued, and of acquiring, holding and conveying every description of property under the name of such Municipality.

6. Such proclamation shall set forth, in addition to the townships and ranges or parts thereof and lots in special survey included in said Municipality, the name of such Municipality.

7. After the issue of the proclamation, the Lieutenant-Governor shall, by order, appoint a returning officer to hold the first election for Councillors or Mayor and Councillors, as the case may be.

8. The returning officer so appointed shall appoint an election clerk, who shall, in case of the absence or death of the returning officer, have all the powers of such returning officer.

9. The returning officer shall immediately, upon receipt of the order appointing him, endorse thereon the time of its receipt, and shall within one week thereafter issue and post up, in at least six conspicuous places within the limits of the Municipality, a proclamation calling for an election for the first council thereof, such proclamation to state the number of Councillors or Mayor and Councillors to be elected, the date and place of holding the nomination therefor, and the date and place or places of voting in case a poll is demanded, and the time and place for holding the first meeting of the council.

10. In case of the death or refusal to act of any person appointed by the Lieutenant-Governor under this Ordinance, he may appoint another.

11. The returning officer shall appoint a deputy-returning officer for each polling place within the Municipality, and each deputy returning officer may appoint a poll clerk.

12. All residents of the Municipality shall be entitled to vote at the first election.

13. At the request of any candidate or his agent, or any voter, the following oath shall be administered by the deputy returning officer to any person tendering his vote at such first election :

I do solemnly swear that I am a male British subject over twenty-one years of age : that I am a freeholder (or householder, *as the case may be.*) in this Municipality, and have been such for a period of three months next preceeding the date of this election.

14. Any person residing in the Municipality and qualified to vote at the first election and not otherwise disqualified under the provisions of this Ordinance may be elected at such first election.

15. Except where herein otherwise provided, the proceedings at such first election and the duties of returning officer, deputy-returning officers and poll clerks relating thereto shall conform as nearly as possible to the proceedings at election for municipal councillors under this Ordinance.

16. The returning officer appointed by the Lieutenant-Governor shall attend at the first meeting of the Council and shall receive from the members thereof their certificates of election and the oaths of office required to be taken by them, and, except in the case of cities and towns, shall preside at such meeting until the election by the Council of its chairman, and in case of a tie shall give a casting vote.

17. Municipal Councillors shall hold office until the thirty-first day of December next ensuing their election, except where the first election for the municipality takes place after the thirtieth day of June, in which case the councillors elected thereat shall hold office until the thirty-first day of December next ensuing the one following their election.

18. The first Council, if elected at any time after the first Monday in January, may by resolution or by-law alter, extend or curtail the time within which or at, before or after which any act, privilege or duty is required to be done, exercised or performed by such Council or any of its officers or any other person.

19. Each Municipality of not more than four hundred square miles shall be entitled to and elect five councillors, and each Municipality of more than four hundred square miles shall be entitled to and elect seven councillors.

20. The persons qualified to vote at any election for municipal councillors after the first election, shall be male British subjects over twenty-one years of age who are assessed upon the last revised assessment roll of the Municipality, either in their own right or in the right of their wives for ~~three~~ hundred dollars or upwards, and whose names appear on the voters' list founded upon such roll.

21. The persons qualified to be elected Mayor or Councillor at any election after the first election shall be male British subjects over twenty-one years of age, residing in the Municipality and having at the time of the election either in their own right or the right of their wives as proprietors or tenants a legal or equitable freehold or leasehold or partly freehold and partly leasehold, or partly legal and partly equitable, rated in their own names on the last revised assessment roll of the Municipality to at least the value of six hundred dollars, and who are not otherwise disqualified under the provisions of this ordinance.

22. The following persons are hereby declared to be disqualified for election as Mayor or Councillor under this Ordinance:

- (1) Any Sheriff or Sheriff's officer, or any officer of any court of law;
- (2) Any person having any contract with the Municipality or having any unsettled or disputed claim therewith;
- (3) Any officer of the North-West Government or any officer of the Municipality.

23. The Council shall at least one week prior to the last Monday in December by By-law appoint deputy-returning officers and define the districts or sub-divisions within the Municipality where votes are to be polled, and the clerk shall, on or before the day of polling, in case a poll is demanded, prepare and deliver to each deputy-returning officer of each district or sub-division, a certified list of the persons entitled to vote in his polling division at such election, at such places as the Council may name.

24. A meeting of the electors shall be called by the returning officer at some convenient place within the Municipality to be named by him, on the last Monday in December, unless the same be a statutory holiday, then on the next ensuing day, for the purpose of nominating the required number of councillors to be named by the clerk in the notice calling the meeting, to serve as such for the term commencing on the first day of January following, and in case a poll is demanded, the election shall be held one week from nomination day, in the manner hereinafter provided.

25. At ten o'clock of the forenoon the returning officer shall declare the meeting open for the purpose of receiving nominations, and any person whose name appears on the last revised assessment roll may propose or second the nomination of any duly qualified person or persons to serve as such Councillors, or Mayor and Councillors, and the meeting shall remain open until twelve o'clock when the returning officer shall declare as hereinbefore provided.

26. In the event of more than the required number of persons being duly qualified having been nominated for the Municipality or for any one or more of the wards, in case the Municipality is divided into wards, the returning-officer shall declare that a poll will be held in such Municipality or ward, naming the time, place, the deputy-returning officer or deputy-returning officers as the case may be appointed to hold the same.

27. If the returning-officer should not attend the meeting called for the purpose of such nomination, the electors shall choose a chairman from amongst themselves, who shall have all the powers of a returning officer under this Ordinance. The chairman so chosen shall report the proceedings in writing to the returning-officer, who shall act in such case as if he were personally present.

28. In case a poll is required the same shall be held one week from nomination day, in the manner hereinafter provided.

29. The returning-officer shall, in case a poll is demanded, on the day of nomination post up in a conspicuous place the names and residences of the persons nominated, and shall, not later than the day following, post up in at least six conspicuous places in the Municipality or ward,

if the Municipality is divided into wards, the names of the candidates for such Municipality or ward, and the time and places for holding the poll for such election and deliver to the deputy-returning officers a similar list.

30. Any candidate nominated may withdraw at any time after nomination and before the close of the poll on polling day, by filing with the returning-officer a declaration in writing to that effect, signed by himself in the presence of the returning-officer, a Justice of the Peace or a Notary Public, and any votes cast for any such candidate so withdrawing shall be null and void.

31. The poll shall be opened at nine o'clock in the forenoon, and shall be kept open until five o'clock in the afternoon of the same day, and all votes at such election shall be given between the said hours and in manner hereinafter provided.

32. Any person producing to the deputy-returning officer at any time a written authority to represent a candidate as agent at a polling place, shall be recognized as such by the deputy-returning officer.

33. Any deputy-returning officer, candidate, agent or poll clerk who belongs to a polling division other than the one in which he is performing such duty, shall be permitted to vote at the polling station where he is actually engaged in such duty, provided he produces a certificate from the clerk of the Municipality that he is a qualified voter in the Municipality.

34. Any voter may vote for as many candidates as are required to be selected at such election, but he shall not vote for any greater number, nor shall he vote more than once for the same candidate.

35. At the request of any candidate or his agent or of any voter, the following oath shall be administered by the deputy-returning officer, to any person tendering his vote at such election :—

“You do solemnly swear (or affirm) that you are the person named or “purporting to be named by the name of———, on the voters list now “shown to you, that you are assessed for real or personal property on “the last revised assessment roll of the Municipality either in your own. “right or in the right of your wife, or for income, for three hundred dollars or upwards; that you have not before voted at this election “and that you have not received or been promised any consideration “whatsoever for voting at this election.”

36. It shall be the duty of the deputy-returning officer to receive the votes of the electors and see that the necessary entries are made in the voters' list and whenever required by any person authorized so to do administer to any voter the oath set forth in the next preceeding section

37. Each deputy-returning officer may by writing under his hand ap- .

point a poll clerk, who, in the absence of such deputy-returning officer or on his failure or inability to fulfil the duties required of him by this Ordinance, shall have all the powers of such returning officer.

### *Proceedings at Elections.*

38. Whenever a poll is required under this Ordinance the votes shall be given by ballot in manner hereinafter set forth.

39. The clerk of the Municipality, or if it be a first election then the returning officer, shall procure or cause to be procured as many ballot boxes as there are polling sub-divisions in the Municipality.

40. It shall be the duty of the clerk or of the returning officer as the case may be, at least two days before the day appointed for taking the votes of the electors in any Municipality to deliver one of the ballot boxes to every deputy-returning officer appointed for the purposes of the election.

41. After the election the ballot boxes shall be returned to the clerk of the Municipality, or if it be a first election, then to the returning-officer, and by him delivered into the custody of the clerk so soon as one is appointed. The clerk shall be responsible for their custody and for their delivery when required.

42. If the clerk fails to furnish ballot boxes in manner herein provided he shall incur a penalty of one hundred dollars for every ballot box which he has failed to furnish in manner prescribed.

43. It shall be the duty of the deputy-returning officer in every polling sub-division not supplied with a ballot box within the time prescribed forthwith to procure one, and he shall issue his order on the treasurer of the Municipality for the expense incurred by him therefor, and the treasurer shall pay to the deputy-returning officer the amount of the order.

44. The clerk shall also forthwith cause to be printed at the expense of the Municipality such a number of ballot papers as shall be sufficient for the purposes of the election.

45. In Cities or Towns where a Mayor and Councillors or Mayor and Aldermen, as the case may be are to be elected, one kind or set of ballot papers shall be prepared for Mayor and another kind or set containing the names of the Councillors or Aldermen duly nominated for the ward, sub-division or Municipality, as the case may be.

46. Every ballot paper shall contain the names of the duly nominated candidates for the Municipality or for the ward or division, as the case may be and the names of the candidates shall be arranged on the ballot paper in alphabetical order.

47. The stubs only of the ballot papers shall be numbered, as in form No. 1 appended to this ordinance.

48. The clerk of the Municipality shall, before opening the poll, cause to be delivered to every deputy-returning officer the ballot papers, materials for marking the ballot papers and also the voters' lists which have been prepared for use in the polling sub-division to which he has been appointed to act.

49. It shall be the duty of the deputy-returning officer to provide compartment at the polling place to which he is appointed to act, where the voters can mark their ballots screened from observation.

50. Each Deputy-Returning officer shall have power to appoint a constable to act at the place where an election is held and whose duty it shall be to maintain order at such polling place.

51. The clerk of the Municipality shall, before the opening of the poll, cause to be delivered to each deputy-returning officer such number of printed directions for voting as he may think sufficient in order that each voter, entitled to vote, may have a copy, such printed directions shall be in form No. 2 appended to this ordinance.

52. The deputy-returning officer shall, immediately before the commencement of the poll, open the ballot box and call such persons as may be present to witness that it is empty; he shall then lock the box and properly seal the same to prevent the opening of the box without breaking the seal, and at the time appointed for the opening of the poll, shall place the box in view for the reception of the ballots. The seal shall not be broken, nor the box unlocked during the time appointed for taking the poll.

53. The clerk of the Municipality shall supply to each deputy-returning officer, before the opening of the poll a voters' list containing the names of all those entitled to vote at that polling sub-division, prepared as in form No. 3 appended to this ordinance; and it shall be the duty of the deputy-returning officer to make such entries opposite the names of persons who have voted, and such other additions as may be provided for under the respective columns of said form.

54. When any person who is entitled to vote for Mayor or Councillor under this ordinance, presents himself for the purpose of voting, the deputy-returning officer shall proceed as follows:—

- (1) He shall ascertain that the name of such person is entered upon the voters' list of the polling sub-division for which he is appointed to act;
- (2) If any candidate or his agent shall demand that such a person be sworn, or if he is required to be sworn and shall take the oath

prescribed for voters in section 35 of this ordinance, or if it be a first election, shall take the oath prescribed in Section 13, the deputy-returning officer shall enter opposite to such person's name in the voters' list the word "sworn" or "affirmed," as the case may be.

55. In case the vote of any person is objected to by a candidate or his agent, the deputy returning officer, shall enter opposite such person's name in the voters' list the words "objected to," adding the name of the candidate upon whose behalf such objection was made.

56. Where any person refuses to take the oath, as prescribed in this ordinance, the deputy-returning officer shall enter opposite such person's name in the voters' list the words "refused to be sworn," and the vote of such person shall not be taken, and if the deputy-returning officer takes or receives such vote, he shall incur a penalty of two hundred dollars.

57. When the proper entries in the voters list have been made respecting a person so claiming to vote, the deputy-returning officer shall sign his initials on the back of a ballot paper and shall deliver the same to such person.

58. The deputy-returning officer or his sworn poll clerk shall, upon request of the party entitled to vote, explain as concisely as possible the mode of voting.

59. Only one person claiming to be entitled to vote shall be allowed in the apartment where the election is held, at a time, and when and so soon as a voter has marked his ballot and delivered the same to the Deputy-Returning Officer he shall at once quit the apartment.

60. The person receiving the ballot paper shall forthwith proceed into the compartment provided for marking the ballot and shall therein and then mark his ballot paper in the manner prescribed in this ordinance, by placing a cross opposite the name of the candidate or candidates for whom he desires to vote, he shall then fold the ballot paper so as to conceal the names of the candidates and the marks on the face of the paper, but so as to expose the initials of the returning officer, and on leaving the compartment shall forthwith and without exposing the face of the ballot paper to anyone, or in any other manner making known to any person, for or against whom he has voted, deliver the same to the returning officer, who shall, without unfolding the same, verify his own initials and at once deposit the same in the ballot box in the presence of all other persons entitled to be and then present in the polling place.

61. While any voter is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed in the same compartment or be in any position from which he can see the manner in which such voter marks his ballot paper, except as hereinafter provided.

62. Any person who has received a ballot paper and who leaves the polling booth without first having delivered the same to the deputy-returning officer in the manner prescribed shall forfeit his right to vote at the election then pending and the deputy-returning officer shall make an entry in the voters' list opposite the name of such party in the column for remarks, that such person received a ballot paper and did not return the same, or that the party returned the ballot and declined to vote, and in case the ballot paper was returned the deputy-returning officer shall mark upon the face thereof the word "declined," and all ballot papers so marked shall be preserved by the deputy-returning officer and by him returned to the clerk in the manner hereinafter provided.

63. In the case any person claiming to be entitled to vote, who states that he is unable from any cause whatsoever to mark his ballot paper the proceedings shall be as follows:—

- (1) The deputy-returning officer shall in the presence of the agents of the candidates, if required by any candidate or agent present, administer an oath or affirmation to such voter to the effect that he is unable to mark his ballot paper, and shall then cause the vote of such person to be marked in the manner directed by such person, and shall then place the same in the ballot box.
- (2) The deputy-returning officer shall state in the voters' list opposite the name of such person in the column for remarks the fact that the ballot paper was marked by him at the request of the voter and the reason why.

64. A person entitled to vote who has spoiled his ballot paper in marking it or who has so dealt with it that it may be counted as a ballot paper rejected and who discovers the fact before it has been placed in the ballot box may, on returning the same to the deputy-returning officer and proving the fact to him, obtain another ballot paper, and the deputy-returning officer shall mark upon the face of the ballot paper the word "Cancelled", and all ballot papers so marked shall be preserved by the deputy-returning officer and by him returned to the clerk in the manner hereinafter provided.

65. Immediately after the close of the poll the deputy-returning officer shall in the presence of the poll-clerk if there be one and such of the candidates as may be present with their agents, (of whom there shall not be more than two for any candidate), as may be present, open the ballot box and proceed to count the votes as follows:

- (1) He shall examine the ballot papers and reject all those on the back of which his initials are not found or on which more votes are given than the elector is entitled to give or on which anything appears by which the voter can be identified and any ballot paper on which votes are given for a greater number of



candidates for any office than the voter is entitled to vote for shall be void as regards all candidates for said office. ‡

66. The deputy-returning officer shall take a note of any objection made by any candidate or his agent to any ballot paper found in the ballot box and shall decide any question arising out of the objection.

67. Each objection so noted shall be numbered and a corresponding number placed on the back of the ballot paper, and initialed by the deputy-returning officer together with the word "allowed" or "disallowed," as the case may be.

68. The deputy-returning-officer shall then count up the votes given for each candidate upon the ballot papers not rejected and he shall make a written statement of the number of votes given to each candidate and of the number of ballot papers rejected and not counted by him, which statement shall be then signed by him, and such other persons authorized to be present as may desire to sign the same.

69. Every deputy-returning officer shall, at the close of the poll, certify under his own hand in full words on the voters' list the total number of persons who have voted at the polling place at which he is appointed and at the completion of the counting of the votes shall, in the presence of anyone authorized under this Ordinance to be present, then present, make up into separate packets sealed with his own seal and also with the seals of any present who desire to affix their seals thereto and marked on the outside:

- (1) The statement of votes given for each candidate and of the rejected ballot papers;
- (2) The used ballot papers which have not been objected to and which have been counted;
- (2) The ballot papers which have been objected to, but which have been counted by the deputy-returning officer;
- (4) The rejected ballot papers;
- (5) The declined and cancelled ballot papers;
- (6) The voters' list.

70. The deputy-returning officer shall forthwith transmit such packets to the clerk of the Municipality.

71. Every returning officer, upon being requested so to do, shall give to the persons authorized to attend at his polling place, a certificate of the number of votes cast at his polling place for each candidate, and the number of rejected ballot papers.

72. After the clerk has received the packets, he shall open the one

containing the statement of the number of votes given for each candidate, and shall at noon on the day following the election, at a place to be named by him on nomination day, publicly declare the result of such election as follows:—

- (1) Total number of votes cast;
- (2) Total number of votes cast for each candidate; and shall declare elected the candidate or candidates having received the highest number of votes; and post up a statement in a conspicuous place under his own hand, showing the total number of votes cast for each candidate, and those declared elected by him.

73. In case it appears that two or more of the candidates have an equal number of votes, the clerk of the Municipality shall at the time he declared the result of the poll, give a vote for one or more of such candidates so as to decide the election; and, except in such case, no clerk of any Municipality shall vote in any election held in his Municipality.

74. All deputy-returning officers, poll clerks and agents, if otherwise qualified, shall be entitled to vote at the place where such person or persons are stationed, at the time of the election, upon the production of a certificate, from the clerk of the Municipality, that such person is entitled to vote within the Municipality.

75. No person shall:

- (1) Without due authority, supply any ballot paper to any person;
- (2) Fraudulently put into the ballot box any paper other than the ballot paper which he is authorized to put in;
- (3) Fraudulently take out of the polling place any ballot paper;
- (4) Without due authority, destroy, take, open or otherwise interfere with any ballot box or packet of ballot papers then in use for the purpose, of the election;
- (5) Any person guilty of any violation of this section shall be liable to imprisonment for any term not exceeding one year.

76. Any officer, deputy-returning officer, poll clerk, candidate or agent who interferes or attempts to interfere with any voter in marking his ballot, or who marks or causes to be marked a ballot paper under section 63 of this ordinance in any way, so as to defeat the intentions of the voter, or who at any time communicates any information he may be possessed of as to the candidate or candidates for whom any vote has been given, or who shall induce any person to display his ballot paper so as to make known to himself or to any other person the manner in which he has voted, or for or against whom he has marked his ballot paper shall on conviction before a Stipendiary Magistrate or two

Justices of the Peace be liable to a fine not exceeding four hundred dollars or imprisonment not exceeding six months, or both.

77. Every returning-officer, deputy-returning officer, poll clerk, candidate or agent authorized to be present at any polling place shall, before exercising any of the functions of such returning-officer, deputy-returning officer, poll clerk, candidate or agent at any polling place take and subscribe before a Justice of the Peace or the clerk of the Municipality, an oath in form as follows:—

“I A——— B——— do swear that I will not at any time disclose to any one the name of any person who has voted at the election to be held on the day of A. D. and that I will not unlawfully attempt to ascertain the candidate, or candidates for whom an elector has voted, and will not in any way aid in the unlawful discovery of the same, and that I will keep secret all knowledge which may come to me of the person for whom any elector has voted, so help me God.

### *General Provisions.*

78. If the election held under this ordinance be a first one, the ballot boxes, packets and returns to be made shall be to the returning-officer, who shall deliver the same to the clerk of the Municipality so soon as one is appointed.

79. The clerk of the Municipality shall retain for three months all ballot and other papers directed to be returned to him by the deputy-returning-officers, and shall then destroy the same, unless otherwise ordered by a Court or Judge of competent jurisdiction.

80. No person shall be allowed to inspect any ballot papers or other documents or papers other than the voters' list used at an election in the hands of the clerk, except under the order of the Court or Judge of competent Jurisdiction, and such order when made shall state the time and place of opening such papers and inspection, and persons to be present as the Court or Judge thinks fit.

81. The reasonable expenses incurred by the Clerk of the Municipality and by any other officers appointed to act at an election under this Ordinance, shall be paid by the Council to the Clerk upon production by him of certified accounts and shall be distributed by the Clerk to the several persons entitled thereto.

82. In any case where the validity of an election under this Ordinance is contested, it shall be tried before a Judge or Stipendiary Magistrate of the district or division within which the Municipality affected is situated, or in any case where a Court or Judge of competent jurisdiction are named therein, the same shall mean a Judge or Stipendiary Magistrate of the district or division within which the Municipality affected is situated; and such Judge or Stipendiary Magistrate shall have power to declare such election void, and to order another election and fix the date thereof.

83. In any case where an election is not held on the day appointed or if by reason of any illegality in the election of the whole or a majority of the council, the Lieutenant-Governor, or the Lieutenant-Governor in Council, may direct the holding of an election as provided for in the first election of councillors under this Ordinance, provided that the voters list, based on the last revised Assessment Roll shall be used at such election.

84. In case a Municipality shall be divided into wards, the meeting for the nomination of candidates shall be held in one place in the Municipality, and the voters' list for each ward shall contain the names of only those persons who are entitled to vote in such ward.

85. Each returning-officer, deputy-returning-officer and poll clerk shall, before entering upon the duties of his office, make and subscribe before a Justice of the Peace or Notary Public the following oath, that is to say:

I do solemnly swear that I will truly, faithfully and to the best of my knowledge and ability perform the duties of the office of (here name the office) to which I have been appointed. So help me God.

and such oath shall be delivered to the clerk of the Municipality with the voters' list used at the election.

86. In case of neglect or refusal of the electors in the Municipality to elect a Council as hereinbefore provided, the Lieutenant-Governor, or the Lieutenant-Governor in Council may appoint members from within the Municipality, being duly qualified, to act as such, or may in his discretion order a new election.

87. The Clerk of the Municipality shall be, except as hereinbefore provided, or unless otherwise directed by by-law of the Council, returning-officer of the Municipality; and any returning-officer may exercise and perform the powers and duties of a deputy-returning-officer, at any one polling place in the Municipality, to be selected by such returning-officer or as directed by the Council.

88. The first Meeting of the Council so elected shall be on the third Monday in January in each year, unless the same shall be a statutory holiday, when it shall be held on the day next ensuing, and the Council of the previous year shall be deemed to hold office up to the first meeting of the new Council notwithstanding the fiscal year shall expire on the thirty-first day of December in each year

### *Chairman.*

89. Except in the case of cities and towns, it shall be the duty of the new Council at its first meeting, after the members thereof have filed their certificates of election and have subscribed to the oaths herein-after provided for, to proceed to the election of a chairman, which shall be done by a majority of those present, being properly qualified, and the

clerk shall preside at such meeting until a chairman is elected and in case of a tie shall have a casting vote.

90. The Chairman, or Mayor as the case may be, shall preside at all meetings of the Council, preserve order, and enforce the rules of the Council; sign all orders or cheques on the Treasurer duly passed by the Council; be vigilant and active at all times in causing the by-laws of the Municipality to be put in force and duly executed; inspect and report to the Council on the conduct of the officers of the Municipality; cause, as far as may be in his power all negligence, carelessness, or violation of duty, to be prosecuted and punished; communicate from time to time to the Council any information and make such recommendation as will tend to the improvement of the finances, health, security and comfort of the Municipality.

91. In the event of the absence of the Chairman or Mayor from any meeting, the Council shall elect a Chairman from amongst themselves, who shall have all the powers of the regular Chairman.

92. It shall be the duty of the Chairman or Mayor to call special meetings of the Council whenever requested to do so by a majority of the same in writing, and all the members thereof shall be duly notified of the time and place of holding the same at least two days previous to the holding thereof.

93. The head of the Council or the presiding officer or chairman of any meeting of the Council may vote with the other members of the Council on all questions; and any question on which there is an equality of votes shall be deemed to be negatived.

#### *Clerk.*

94. It shall be the duty of the Council at its first meeting to elect a Clerk, who shall hold office during the pleasure of the Council.

95. The Clerk shall truly record all resolutions, decisions and other proceedings of the Council, and if required by the Council, shall record the name of every member voting and whether aye or nay, on any question coming before the Council; he shall keep the books, records and accounts of the Council and shall preserve and file all accounts acted upon by the Council, and shall keep the original or certified copies of all by-laws of the Council as directed by by-law.

96. The Clerk of every Municipality shall make a collector's roll or rolls, as the case may be, containing columns for all information required by this ordinance, in which he shall set down in full the name of every person assessed, his post-office address as shown by the assessment roll, and the assessed value of his real and personal property and taxable income, as ascertained after the final revision of the assessment roll; and shall calculate and set down opposite the name of each party so assessed and under the columns headed "Statute Labor Fund,"

"Special Rates," "Debenture Fund," "Local Rate," and "School Rate," or as the case may be, the sum for which he is chargeable on account of such rates, and in the column headed "Total" the total amount of rates for which he is liable; and the Clerk shall deliver the roll certified under his name to the collector or collectors, on or before the first day of October, or such other day as may be prescribed by by-law or resolution of the Municipality.

97. In addition to the roll prescribed in the next preceeding clause, the Clerk of the Municipality shall make out a roll which shall be a copy of the non-resident land assessment as finally revised, and shall enter opposite to each lot or parcel of land all the rates or taxes with which the same is chargeable as hereinafter provided, in separate columns, and shall deliver the same to the collector on or before the first day of October or as may be prescribed by by-law of the Municipality.

98. The Clerk of each Municipality shall, in making out the collector's roll for the year, add any arrears of taxes to the taxes assessed against any occupied lands for the current year as have not been collected for the previous year, and such arrears shall be collected in the same manner, and subject to the same conditions as all other taxes entered on the collector's roll.

99. The Clerk of the Council shall, at the meeting of the Council immediately following the receipt of the auditors' report, submit the same to the Council, who shall finally audit and allow the account of the treasurer and collectors and all accounts chargeable against the Municipality, and in case of charges not regulated by by-law, the Council shall allow what is reasonable, and in cities and towns the Council may also appoint an auditor, who shall, as directed by the Council, examine and report and audit the accounts of the Municipality, in conformity with any regulation or by-law of the Council.

100. The Clerk of every Municipality shall, on or before the tenth day of July in each year, prepare alphabetically for the Municipality or Ward as the case may be, a list of those persons being duly qualified to vote at municipal elections therein whose names appear on the assessment roll as finally revised by the Court of Revision, and shall post the same in a conspicuous place in his office: such list shall contain, opposite the name of each voter, a short description of the real property in respect of which he is entitled to vote, or if on personality or income, the words "personally" or "income" as the case may be.

101. The Clerk of every Municipality shall, within one week after the final revision of the assessment roll, deliver to the road overseer or road overseers appointed by the Council, a list of all parties assessed and liable for statute labor within their respective divisions, and the amount of statute labor for which each of such parties is liable.

21. 10. 1885  
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102. It shall be the duty of the clerk of every Municipality, on or before the first day of April in each year, to transmit to the Lieutenant-Governor a list of all persons elected as Councillors, together with a list of the officers of the Municipality appointed by by-law, the same to be signed by the head of the Municipality and the Clerk, and on or before the first day of December in each year, or so soon thereafter as ascertained, a list showing the total number of persons assessed in the Municipality the number of acres under cultivation, the value of real property, the value of personal property, the total amount of taxes imposed, the debt of the Municipality, the total assets of the Municipality, the total liability of the Municipality, the total revenue from sources other than assessment, the total amount collected for school purposes, the total amount expended on roads and bridges, and a detailed list of the salaries paid by the Municipality; and, in the case of towns and cities, a list showing the total value of real property, the total value of personal property, the total amount of taxes imposed, the total liability of the Municipality, the total revenue from sources other than assessment, the total amount expended for school purposes, the total amount expended on roads and bridges, and a detailed list of the salaries paid.

### *Councils.*

103. The jurisdiction of each Council shall be confined to the Municipality for which it is elected, unless authority is given otherwise by the Lieutenant-Governor in Council, and the powers of every Municipality shall be exercised by the Council or by the Mayor and Council.

104. A majority of the Council shall be a quorum at any meeting, but when the Council consists of only five members the concurrent votes of at least three shall be necessary to carry any resolution or other measure.

105. Every Council may make regulations and by-laws—not provided for by this ordinance, and not contrary to law—for governing its proceedings, calling meetings, the conduct of its members, appointing committees, and generally such regulations as the good of the Municipality may require, and may repeal, alter and amend its own by-laws, except where by-laws are made for the purpose of raising money, levying assessments or striking rates.

106. The Council may pass a by-law for paying the members thereof, which shall in no case exceed the sum of one and a half dollars per day and ten cents for every mile necessarily travelled coming to or attending the business of the Council, provided that the number of days for which each councillor shall be paid during the year for which he is elected shall not exceed six.

107. In case of the death or removal of any Councillor, or in the event of a vacancy occurring in the Council from any cause whatsoever, the Council at its next meeting shall order an election, and the member

so elected shall hold office for the unexpired period of the member whose place he was elected to fill.

108. In the event of any Councillor refusing or neglecting to attend the meetings of the Council for three months, his seat shall be declared vacant, unless he shall have received permission to absent himself from the Council by a majority vote of the same at a regular meeting of the Council, which permission shall in no case be for a longer period than six months.

109. The Council of any Municipality may pass by-laws for

- (1) The raising of revenue by assessment on real and personal property and for collecting the same;
- (2) The expenditure of the revenue;
- (3) The maintenance of roads and bridges, and building the same, to lay out, open, change, close or extend roads, streets alleys and by-ways;
- (4) The prevention of cruelty to animals not otherwise provided by law;
- (5) The abatement and prevention of nuisances;
- (6) The prevention or removal of abuses prejudicial to agriculture, not otherwise provided for by law ;
- (7) The relief of the poor ;
- (8) Drains and watercourses ;
- (9) Drainage work and the regulation of ditches :
- (10) Public health ;
- (11) The appointment of public officers and persons to enforce any provisions of this Ordinance ;
- (12) The maintenance of officers under any provision of this Ordinance;
- (13) The establishment and maintenance of pounds, the impounding of animals, running at large of the same, and regulating their detention and sale or release, subject to any legislation by the North-West Council ;
- (14) The erection of Municipal buildings, such as halls, lock-ups, weigh-houses, markets, and generally such buildings as may be deemed beneficial to the interests of the Municipality.
- (15) The encouragement of the planting of trees on prairie lands, or



the public highways, and remuneration for the same by commutation of statute labor or otherwise ;

- (16) Taking the census of the Municipality ;
- (17) Enforcing the by-laws of the Municipality by fine or imprisonment ;
- (18) The sale of land or personal property in satisfaction of unpaid taxes ;
- (19) The regulation of meetings of Council and conduct of its members ;
- (20) The duties of its officers, salaries and security to be given, not otherwise provided for by law ;
- (21) Public morals, not otherwise provided for by law ;
- (22) The establishment and regulation of public markets and imposition of penalties for light weights, short measurement and any breach of contract in the public market ;
- (23) For granting bonuses to manufactories, mills, railways, or any works of a public nature, subject to ratification by the ratepayers as hereinafter provided ;
- (24.) Exemption from taxation for the then current year ;
- (25) Exemption from taxation for a longer period than one year, subject to ratification by the ratepayers as hereinafter provided ;
- (26) For granting aid to Agricultural Societies ;
- (27) For building, owning or operating grist mills, elevators and manufacturing establishments ;
- (28) For licencing bridges and ferries wholly within the Municipality, not being the property of the Government, and allowing the collection of tolls thereon for periods not exceeding five years ;
- (29) For subdividing the Municipality into wards and providing for the election of one or more councillors as herein provided for each ward or polling sub-division, but no Council shall have power to subdivide the Municipality into wards, unless they have been elected on a revised assessment roll ;
- (30) To provide for protection from fire by the purchase of engines or other necessary appliances for the extinguishment of fires and the organization and remuneration of a fire department ;
- (31) To prevent the spread of prairie fires within the Municipality

110. All the powers conferred on Municipal Corporations by Section 203 and sub-sections thereto are hereby extended to Councils of Municipalities generally.

111. In case the majority of the residents of any portion of a Municipality divided into "Lots," as provided in this Ordinance, petition the Council thereof, setting forth the desire of such residents to incur a debt or liability repayable in the financial year, the Council may by by-law levy a special rate against all the property within the area (which shall be described in the petition), as set forth in such petition, and such rate shall be collectable as all other rates assessable by the Municipality.

112. At its first or subsequent meeting the Council shall pass a by-law for the appointment of a Treasurer, Assessor or Assessors, Collector, Auditor, Road-overseers, Pound-keepers and Constables, and fix their remunerations.

113. The Council of every Municipality shall by by-law appoint one or more persons, not being members of the Council, as assessor or as assessors and collectors, or as one or both. If more than one assessor is appointed, the by-law shall define for each the division for which he is appointed, and where the Council of any Municipality has passed by-laws requiring taxes to be paid on or before a given time, it shall be the duty of the collector to make a return on oath, on the day following the time so named, of the names of all persons who have not paid their Municipal taxes.

114. The Council of any Municipality may pass by-laws allowing a rebate on all taxes paid before a time to be named in the by-law.

#### *Assessor.*

115. The assessor or assessors shall prepare an assessment roll in which he or they shall set down, according to the best information to be had in consecutive columns:

- (1) The number of the assessment;
- (2) The names in full, if the name can be ascertained, of all taxable persons resident within the Municipality who have property therein;
- (3) The names and post office addresses of all owners and occupants as defined by this Ordinance;
- (4) The description and extent or amount of property assessed against each or any interest which is liable to assessment.
- (5) The actual cash value of each parcel of real property or the interest therein of the party assessed;

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- (6) The total actual cash value of personal property ;
- (7) Taxable income, which shall be deemed to mean his income save and except the sum of five hundred dollars other than that derived from any property, real or personal, for which he is assessed ; income derived from stock or shares in any incorporated company shall be assessed against the individual holders thereof, and in the Municipality in which such individual holder resides ;
- (8) To state after the name of the party assessed whether householder, free-holder or tenant, by affixing the letter H., F., or T., as the case may be ;
- (9) The age and address of the party ;
- (10) Section, Township, and Range, or Lot, Block and Street or Lot in special survey ;
- (11) Number of acres assessed, number under cultivation ;
- (12) Religion and total number of family of each person rated as resident ;
- (13) Number of cattle, sheep, horses, hogs and dogs ;
- (14) Date of assessment and delivery of notice ;
- (15) As regards the lands of non-residents, whether owned by individuals or Corporations, whose names cannot be ascertained the assessors shall set down, in consecutive columns, in a roll, separate from the other assessments, and head the same "Non-resident Land Assessment" :
- (a) The number of the Assessment ;
- (b) A description of the land, if not subdivided into lots, by describing the section, or portion of a section, Township and Range by their numbers or other description ; or if subdivided into lots, by giving the numbers and other description thereof, so far as the same can be ascertained.

116. Every assessor shall, before delivery of his roll to the Clerk of the Municipality, deliver to the party assessed, if residing in the Municipality, a notice setting forth the sum at which his real and personal property and taxable income is assessed, or, if the person assessed be not residing in the Municipality, shall post such notice by registered letter directed to the person assessed to the Post Office named in such roll, and shall enter on the roll opposite the name of such person the date of such delivery or posting, and such entry made shall be deemed *prima facie* evidence of delivery.

117 The assessors shall make and complete and deliver their rolls to the clerk of the Municipality in each year on or before the fifteenth day of June, and shall attach thereto a certificate in manner following:

I                      hereby certify that I have in the foregoing assessment roll assessed the Municipality of                      (or part as the case may be, naming the part) according to Ordinance provided, to the best of my knowledge and ability.  
(Signed)

ASSESSOR

118. In the case of a partnership or company having more than one place of business within the Municipality, the personal property thereof shall be assessed in the locality where it is situate, and if this cannot be done, the partnership or company may elect at which of its places of business it will be assessed for the whole of its personal property.

119. If a resident has no place of business, he shall be assessed at his place of residence.

120 It shall be the duty of every person assessable for real or personal property in every Municipality to give all information to the assessors, and he may deliver to the assessors a statement in writing setting forth the particulars of the property for which he should be assessed, but no such statement shall bind the assessor or excuse him from making due enquiry as to its correctness.

121. In assessing vacant ground, or ground used as a farm garden, or nursery, and not in immediate demand for building purposes, in cities or towns, the value of such vacant ground shall be that at which sales of it can be freely made, and where no sales of it can be reasonably expected during the current year, the assessor shall value it as if held for farming or gardening purposes, with such percentage added as the situation of the land may reasonably call for, and such vacant land, whether surveyed into lots or not, if unsold as such, may be entered on the assessment roll as so much of the original lot or section, as the case may be, and where ground is not held for purposes of sale but *bona fide*, inclosed and used in connection with a residence or building as a paddock garden, park or lawn, it shall be assessed at a valuation which, at six per centum, would yield a sum equal to the annual rental which, in the judgment of the assessor, it is reasonably worth, reference being always had to its position and local advantages.

122. The interest of every person or Corporation in any lands, the fee of which is in the Crown, shall be liable to assessment.

### *Exemptions.*

123. All land or personal property in the Territories shall be liable to taxation subject to the following exemptions:—

- (1) All property held by Her Majesty or specially exempted by the Parliament of Canada or for the public use of the Government of the Territories;

- (2) All property held by or in trust for the use of any tribe of Indians or the property of the Indian Department ;
- (3) Where any property mentioned in the preceeding clauses is occupied by any person otherwise than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable ;
- (4) The grounds and buildings of all public schools, universities, collegiate institutes or incorporated seminaries, being public property, so long as such property is actually used or held for educational purposes ;
- (5) All property belonging to the Municipality when held and occupied or in the use of the corporation and the personal property belonging to the same ;
- (6) Jails and court houses and the necessary land attached thereto ;
- (7) Churches and the land on which they stand, not exceeding one half acre, in towns and cities, together with the buildings thereon used for the purposes of the said church or occupied by the incumbent or priest, and, in rural Municipalities, one hundred and sixty acres of land in addition to the above, if the same is actually used for the support and maintenance of any church or mission ; orphanages, poor-houses, houses of industry, asylums, being public institutions, and the real and personal property connected with the same ;
- (8) The property of every public library ;
- (9) The income of a farmer derived from his farm and the income of merchants, mechanics and other persons derived from capital liable to taxation ;
- (10) So much of the personal property of any person as is invested in the debentures or bonds of any Municipality within the Territories ;
- (11) Personal property to the extent of three hundred dollars ;
- (12) Grain *in transitu*, household effects of every kind, books and wearing apparel ;
- (13) The increase in the value of the land by reason of the cultivation thereof together with the growing crops ;

### *Rates.*

124. In every Municipality the rates shall be calculated at so much in the dollar on the actual value of all thereal and personal property and income liable to assessment.

125. The Council of every Municipality shall every year, on or before the fifteenth day of July, make estimates of all sums which may be required for the lawful purposes of the Municipality for the year or that part thereof for which the sums are required to be levied, making due allowance for the costs of collection and abatement and losses which may occur in the collection of the taxes on the lands of non-residents.

126. The Council of the Municipality shall pass a by-law authorizing the levying and collecting of a rate or rates of so much in the dollar on the assessed value of the property therein as the Council deems sufficient to raise the sum required in such estimates, but in no case shall the rate imposed exceed two cents on the dollar of the assessment in any year including local and special rates but not including school rates.

127. The Trustees of any school district, any portion of which is situated within a Municipality, may demand of the Council of the Municipality that the amount for which the school district, or the part thereof situated within the Municipality, is liable for school purposes, shall be imposed and collected by the Municipality, and the lands and property of persons liable for such amounts shall be assessed, and the same shall be collected as other rates by the Municipality.

128. If the amount collected falls short of the sums required, the Council may direct the deficiency to be made up from any fund belonging to the Municipality, except sinking funds to retire debentures.

129. If there be no unappropriated funds, the deficiency may be deducted from the sums estimated as required, or from any one or more of them.

130. Should the amount collected exceed the estimates, the sum in excess shall form part of a general fund of the Municipality, and shall be at the disposal of the Council.

131. In cases where the amount collected has been on account of some special purpose, and is not required for such purpose, it shall also form part of the general fund of the Municipality.

132. The taxes or rates imposed in any year shall be deemed to be due on the first day of January of the then current year.

133. The Council may, from time to time, extend the time at which all taxes shall be paid, but not beyond the first day of March following the year for which the assessment was made.

134. The real estate and personal property of all railway companies liable to assessment is to be considered as the property of rate-payers within the Municipality.

*Appeal from Assessment Roll and Revision of Roll.*

135. If the Council of a Municipality consists of not more than five members, it shall form a Court of Revision for the Municipality.

136. If a Council consists of more than five members, the Council shall appoint five of its members to be a Court of Revision, and three thereof shall be a quorum for the transaction of business.

137. The Clerk of the Municipality shall be the Clerk of the Court, and shall record all the proceedings thereof.

138. The Court may meet and adjourn from time to time, and may be summoned to meet at any time by the head of the Municipality.

139. All evidence before the Court of Revision shall be taken on oath and any member shall be competent to administer the oath to any person giving evidence before the Court.

140. At the time appointed the Court shall meet and try all complaints in regard to persons wrongfully placed upon the roll or omitted therefrom or assessed to high or too low as the case may be.

141. All the duties of the Court of Revision which relate to the matters aforesaid and the rolls finally revised by the Court shall be completed before the fifteenth day of August in each year.

142. The proceedings for the trial of complaints shall be as follows :—

- (1) Any person assessed within the Municipality who considers himself aggrieved for any or all of the causes hereinafter referred to, may within fourteen days of the time fixed for the return of the roll, give notice in writing to the Clerk of the Municipality that he considers himself so aggrieved, naming the complaints and grounds of appeal and upon what property ;
- (2) If any ratepayer within the Municipality thinks that any person has been assessed too high or too low, or has been wrongfully inserted in or omitted from the assessment roll, the Clerk shall on his request in writing, give notice to such person and to the assessor of the time when the matter will be tried by the Court, and the matter shall be decided in the same manner as complaints by a person assessed ;
- (3) The Clerk of the Court shall post up in some convenient place within the Municipality a list of all complaints in their own behalf against the assessors' return and all complaints on account of other persons stating the names of each, the applicant and respecting whom, with a concise description of the matter complained against, together with an announcement of the time when the Court will be held to hear the complaints ;

4. If it should appear to the Court of Revision that errors exist in the assessment roll, which should be corrected, they may by resolution extend the time for making complaint;

- (5) The Clerk shall cause to be left at the residence of each assessor a list of all complaints respecting his roll and shall also prepare a notice in the form following for each person with respect to whom a complaint has been made:

Take notice that you are required to attend the Court of Revision at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ in the matter of the following appeal of the appellant. That you are assessed (too high) or (too low) or (not a bona fide resident) or as the case may be.

Signed,

Clerk.

- (6) If a person resides or has a place of business within the Municipality, the Clerk shall cause the notice to be served personally at the person's residence or place of business;
- (7) If the person be not residing within the Municipality, then the notice shall be addressed to such person by registered letter to the Post Office address entered on the assessment roll;
- (8) Every notice hereby required shall be served or posted at least six days before the sitting of the Court;
- (9) Persons complained against may appear before the Court in person or by agent;
- (10) The Court, after hearing the complainant and the party complained against and any evidence adduced, as well as the assessor, shall determine the matter and confirm or amend the roll accordingly;
- (11) If either party fail to appear, either in person or by agent, the Court may proceed *ex parte*.

143. The roll, as finally passed by the Court, and certified by the Clerk of the Court as so passed, shall be valid and bind all parties concerned notwithstanding any error or defect in regard to such roll.

### *Statute Labor.*

144. Every person assessed upon the assessment roll of a Municipality shall, if his property be assessed at not more than five hundred dollars, be liable to one day's statute labor, and for every five hundred dollars or part thereof in excess of said sum, to an additional day's statute labor.

145. Every other male inhabitant of the Municipality of the age of

Repealed Sec. 7. 86

amended Sec. 7 of 86



twenty one years or upwards and under the age of sixty years, not assessed as herein provided, shall be liable to one day's statute labor.

146. Every person liable to statute labor as hereinbefore provided may commute the same at the rate of two dollars per day.

147. The Council of any Municipality may by by-law commute the statute labor of any person or persons resident within the Municipality with regard to any certain specified property, for a term of years, in consideration of statute labor to be performed in any one year.

### *Collectors and Their Duties.*

148. All rates, assessments, charges, collections and taxes required to be collected by any provision of this Ordinance shall be collected as hereinafter provided.

149. The collector, upon receiving the collector's roll, shall proceed to collect the taxes therein mentioned and shall call at least once upon the person taxed or at the place of his usual residence or place of business, if within the Municipality, and shall demand payment of the taxes payable by such person, and if such person is not residing in the Municipality shall mail by registered letter a notice demanding payment thereof, giving a statement of the same addressed to such person to the Post Office appearing on such roll, and shall at the time of such demand or posting enter the date thereof on his collection roll opposite the name of the person taxed, and such entry shall be *prima facie* evidence of such demand.

150. In case any person neglects or refuses to pay such taxes for fourteen days after such demand, when made personally or at the place of his usual residence or place of business in the municipality, or after one month from the posting of such registered notice, the Collector may by himself, or by an agent appointed by him, in writing, levy the same with costs, by distress of the goods and chattels of the person who ought to pay the same in the Municipality, or of any goods and chattels found on the land assessed, whether owned by such person assessed or not, and no claim of property, privilege or lien except that of the Crown shall be available to prevent the sale of such goods and chattels so found on the land in payment of the taxes and costs of such seizure and sale.

151. The costs chargeable for such distress and sale shall be as follows:

Mileage going to and returning from the place of seizure, each mile necessarily travelled.....	Ten cents.
Seizure.....	One dollar.
Taking care of Property.....	The sum actually disbursed not exceeding two dollars per day.
Notices of Sale and posting same up.....	One dollar and fifty cents.
For Selling, five per cent on the amount realized, not exceeding the amount of the taxes.	

152. The collector shall, by advertisement over his hand posted up in

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see roll

at least three public places within the Municipality within which the sale of goods and chattels distrained is to be made, give at least six days' public notice of the time and place of such sale and of the name of the person whose property is to be sold, and at the time named in the notice the collector or his agent shall sell at public auction the goods and chattels distrained, or so much thereof as may be necessary to satisfy the claims of the collector, including costs and charges allowed by this ordinance.

153. If the property distrained has been sold for more than the amount of taxes and costs, and if no claim for the surplus has been made by any other person, on the ground that the property sold belonged to him, or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the said property was when the distress was made, or if such claim be made by the person for whose taxes the property was distrained and the claim is admitted, the surplus shall be paid to the claimant.

154. If the claim is contested such surplus money shall be paid over by the collector to the treasurer of the Municipality, who shall retain the same until the respective rights of the parties have been determined by action at law or by arbitration as provided in this Ordinance.

155. Taxes payable by any person may be recovered with interest and costs as a debt due to the Municipality, in which case the production of a copy of so much of the collector's roll, as relates to the taxes payable by such person, purporting to be certified as a true copy by the Clerk of the Municipality, shall be *prima facie* evidence of the debt.

156. On or before the fourteenth day of December in every year, or on such day in the next year not later than the first day of March as the Council of the Municipality may appoint, every collector shall return his roll to the treasurer of the Municipality, and shall pay over the amount then in his hands collected by him to such treasurer, specifying in a separate column in his roll how much of the whole amount is paid over on account of each separate rate, and shall under oath verify the dates of the demands of payment and of the amounts returned as paid by him opposite the name of each party in the collector's roll in manner following:—

"I \_\_\_\_\_ Collector, do solemnly swear that the foregoing roll contains a true account of the moneys collected by me; that the date of the demands of payment is correctly set forth, and that I have paid in all the moneys collected by me. So help me God."

157. If any of the taxes mentioned in the collector's roll remain unpaid, and the collector be not able to collect the same, he shall deliver to the treasurer of the Municipality an account of all the taxes remaining due on the roll, and in such account the collector shall show opposite to each assessment the reason why such collection could not be made, by inserting, as the case may be, the words "non-resident" or "not sufficient property to distrain."

158. The taxes accrued on any land shall be a special lien on such land having preference over any claim, lien, privilege or incumbrance of any party whosoever, except the Crown, and shall not require registration to preserve it.

*Treasurer.*

159. The Council of every Municipality shall appoint a Treasurer, who may be paid by salary or by percentage, and the Treasurer so appointed shall, before entering upon the duties of his office, give such security as the Council directs for the faithful discharge of such duties; and, it shall be the duty of every Council in each year to enquire into the sufficiency of the security given by such Treasurer and to report thereon.

160. The Treasurer shall receive and safely keep all moneys belonging to the Municipality, and shall pay out the same in such a manner as the laws of the Territories and the lawful by-laws of the Council of the Municipality whose officer he is, direct; but no member of the Council shall receive any money from such Treasurer for any work performed, except as remuneration for services authorized by this ordinance.

161. The Treasurer shall keep regular books of account in such manner as may be directed from time to time by the Council, and which shall show faithfully all moneys received and how expended, and he shall exact and retain vouchers and receipts for all moneys paid, and he shall prepare and submit to the Council at least once in every month a correct statement of the moneys at the credit of the Corporation.

162. In case any Treasurer is dismissed from office or absconds, it shall be lawful for his successor to draw any moneys belonging to the Municipality, deposited to the Credit of such Municipality with any Bank or private individual.

163. The Treasurer of the Municipality may also be treasurer of the School Fund.

164. The Treasurer shall not be eligible as Auditor.

165. It shall be the duty of the Treasurer to see that moneys collected under by-law for the purpose of the payment of interest on debentures issued by the Municipality, or, providing for a sinking fund for the same are properly applied.

166. The Council of every Municipality may authorize the Chairman or Mayor thereof, and the Treasurer, to borrow from any person or bank, or corporation, such sum of money as may be required to meet the expenditure of the Municipality until such time as the taxes levied therein can be collected; such authorization shall be by by-law of the Council, and shall be under the seal of the Corporation.

*Auditors and Audit.*

167. Every Council shall, at the first meeting thereof in every year appoint one or more auditors, but no one who at such time or during the preceding year is or was a member of the Council, or any officer under the Corporation, or who has during such preceding year had either directly or indirectly a share or interest in any contract with or on behalf of the Municipality, except as Auditor, shall be appointed as such.

168. The Auditor shall examine and report upon all account affecting the Municipality or relating to any matter under its control or within its jurisdiction for the year ending on the thirty-first day of December preceding his appointment.

169. The Auditor shall prepare an abstract of the receipts expenditures, assets and liabilities of the Municipality, and also a detailed statement of the said particulars in form as the Council may direct, and shall make a special report of any expenditure made contrary to law and shall file the same in the office of the Clerk of the Council within one month after his appointment, and thereafter any inhabitant or ratepayer of the Municipality may inspect the said report and may by himself or agent, at his own expense, take a copy thereof or extracts therefrom.

*Voters' Lists.*

170. Any person who has been resident in the Municipality in the then current year prior to the first day of July, and who is otherwise duly qualified, whose name does not appear on the voters' list or who is not assessed high enough to be qualified as a voter, or whose name is put down in error, may, either by himself or agent, notify the Clerk in writing of his intention to apply to have his name inserted on the said list or to have the list otherwise amended, as the case may be, in form following:

To the Clerk of the Municipality of

Take notice that I intend applying to the Council to have my name added to the list (or to have the list corrected, as the case may be,) as a voter in that I should be assessed for lot or section (inserting the number of the Lot, Block and name of street, or Section, Township and Range, as the case may be,) or that I should be assessed upon income for dollars, or that my name is wrongfully omitted, or that my name is put down in error, as the case may be

(Signature of Applicant.)

.....  
Applicant.

or (name of Applicant.)

.....  
Applicant by his Agent-

(Signature of Agent

.....

171. If any person qualified as a voter on income has left the Municipality, or if a person has disposed of the property for which he was qualified as a voter under this Ordinance before the first day of October in the then current year, he shall be deemed disqualified as a voter, and any person duly qualified may apply to have the name of the party so disqualified struck off the voters' list by notifying the Clerk of his intention of applying to the Council for that purpose as provided in the preceding section.

172. Notices served upon the Clerk under the two preceding sections shall be served in each year on or before the first day of November.

173. On or before the fifth day of November, the Clerk shall make a list of all parties applying to have their names added to the voters' list and of the names of those that have applied to be struck off the list, together with the name of the party applying and for what cause, and shall post the same in a conspicuous place in his office, and shall immediately thereafter notify the parties interested that application has been made to add or to strike off (as the case may be) their names from the voters' list.

174. On or before the first day of December in each year the Council of each Municipality shall meet as a final Court of Revision on the voters' list and shall hear and determine all cases and applications of which notice has been given to the Clerk as hereinbefore provided, and shall have power to add to, strike off or amend the voters' list, as they may deem fit and right, and after all cases have been so heard and determined upon, the list as finally amended and revised by them, shall be the voters' list of the Municipality for the year next ensuing.

175. Every By-law under this Ordinance shall be under the seal of the Municipality, and shall be signed by the head of the Municipality or by the person presiding at the meeting at which the By-law is finally passed, and by the Clerk of the Municipality, and every such By-law shall have three distinct and separate readings before the same shall be finally passed, but not more than two readings shall be had at any one meeting, except by the unanimous vote of the Council present.

176. A copy of any By-law, written or printed, without erasure or interlineation, and under the seal of the Municipality certified to be a true copy by the Clerk thereof and by any member of the Council, shall be authentic and received as evidence in any Court of Justice, without proof of the seal or signatures, unless it is specially pleaded or alleged on oath that the seal or one or both of the signatures have been forged, or that the same is not a true copy of the By-law which it purports to be a true copy of.

177. All By-laws for contracting debts or borrowing money, except such as provide for the repayment thereof within the financial year shall, before the final passing thereof, receive the assent of a majority of the ratepayers entitled to vote thereon in the manner hereinafter mentioned.

*Amended* 178. No By-law for any of the purposes mentioned in Sub-sections twenty-three, twenty-five and twenty-seven of Section number one hundred and nine of this Ordinance shall be introduced or entertained by the Council, except on a petition of one-half the ratepayers of the Municipality, and all such By-laws shall, before the final passing thereof receive the assent of a majority of the ratepayers voting thereon in the manner hereinafter provided—provided, however, that upon the introduction of any such By-law no informality in the proceedings, prior to such introduction, shall affect its validity.

179. In case a By-law requires the assent of the electors of the Municipality before the passing thereof, the following proceedings shall be taken for ascertaining such assent:—

- (1) The Council shall by the By-law fix the day and hour for taking the votes of the electors and such places in the Municipality as the Council shall in their discretion deem best, and where the votes are to be taken at more than one place, shall name a returning officer to take the votes at each place, and the day so fixed for taking the votes shall not be less than three nor more than five weeks after the first publication of the proposed By-law as hereinafter provided;
- (2) The Council shall, before the voting thereon by the ratepayers, publish a copy of the By-law in some public newspaper, published within the said Municipality, or, if there be no such newspaper, in some public newspaper near the Municipality, and such publication shall be continued in at least one number weekly of such newspaper for three successive weeks, and shall also put up a copy of the By-law at four or more of the most public places of the Municipality;
- (3) Appended to each copy shall be a notice signed by the Clerk of the Council stating that such is a true copy of the proposed By-law which will be taken into consideration after one month from the first publication in the newspaper, stating the date of the first publication, and that at the hour, day and place or places therein fixed for taking the votes of the electors, the polls will be held;
- (4) The Returning Officer shall open the polls at the day and hour named, and record the votes by open voting for and against the By-law, "yea" or "nay," and make a return thereof to the Council.

180. The Council shall by a By-law fix a time and a place when the Clerk of the Council which proposed the By-law shall sum up the number of votes given for or against the by-law.

181. On the application of any person interested in promoting or opposing the passage of the By-law the Chairman or Mayor shall authorize the attendance of one person to attend, on behalf of the party applying, at each polling place and at the final summing up of the votes.

182. Ratepayers entitled to vote on any By-law requiring the assent of the ratepayers shall be those so duly qualified and assessed as a freeholder on the last revised assessment roll for not less than six hundred dollars, either by himself or his wife or who or whose wife is a leaseholder of real property within the Municipality of such value and who is rated on the last revised assessment roll therefor, and which lease extends for a period of time for which the debt to be contracted or the money to be raised by such by-law is made payable and by which lease the lessee has covenant to pay all Municipal taxes in respect of the property leased and which person is named on the last revised voters' list.

183. The oaths to be submitted to voters shall be in form similar to those administered to electors when voting for Municipal Councillors, provided, however, that such voters are otherwise duly qualified to vote for such by-law.

184. The Clerk, after he has received certified returns from the deputy returning officers of the number of votes given at each polling place, shall at the time and place appointed by the by-law, in the presence of the persons authorized to attend or such of them as may be present, sum up from such statements the number of votes for and against such By-law, and shall then and there declare the result and forthwith certify to the Council under his hand whether the majority of the electors voting upon the by-law approved or disapproved of the same.

185. Any By-law which is carried by a majority of the duly qualified electors voting thereon, shall, within six weeks thereafter, be passed by the Council which submitted the same.

186. A By-law requiring the assent of the electors shall come into operation within thirty days after the final passing thereof by the Council.

187. Within thirty days after the final passing of a By-law requiring the assent of the ratepayers, any person affected thereby may, in his own name, by a petition presented to a Stipendiary Magistrate, or to any court of competent jurisdiction, demand and obtain, on the ground of illegality, the annulment of any By-law passed under the provisions of this Ordinance; but every such petition must be accompanied by a deposit of fifty dollars as security for costs.

188. The annulment of part only of a By-law may be demanded in the same way.

189. The petition must set forth in a clear and precise manner the reasons alleged in support of the demand, and must be accompanied by a certified copy of the By-Law, if such copy can be obtained, and if such copy cannot be obtained by the applicant, the Stipendiary Magistrate or Court may order the Clerk of the Municipality or any person in whose custody such By-law may be, to produce such copy duly certified, and the person so ordered is for this purpose deemed to be an officer of the Court which gives such order.

190. A copy of such petition must be served on the Clerk and upon the Chairman or Mayor of the Municipality, or in the absence of either of them the same may be served on any grown-up person at their domiciles, at least eight days before it is presented to the Stipendiary Magistrate or Court, and such copy shall state at what day, hour and place the said petition shall be presented to the Stipendiary Magistrate or Court, and an affidavit of such service made before a Justice of the Peace or a Notary Public must accompany such petition.

191. No application to quash or annul any such By-Law in whole or in part shall be entertained by any Stipendiary Magistrate or Court unless such application is made within thirty days from the passing of such By-law, except when such By-law has not been submitted or has not received the assent of such electors or ratepayers, and in such case an application to quash such By-law may be made at any time.

192. After an order has been made by a Stipendiary Magistrate or Court directing an enquiry, and after a copy of such order has been served as herein provided, all further proceedings on the By-law shall be stayed until after the application in respect of which the enquiry has been disposed of; but if the matter is not prosecuted to the satisfaction of the Stipendiary Magistrate or Court, he may remove the stay of proceedings.

193. No By-law shall be set aside for corrupt practices provided the passage thereof was not affected by such corrupt practices.

### *By-laws for Creating Debts.*

194. Every Municipality may, under the formalities required by this Ordinance, pass By-laws for contracting debts by borrowing money or otherwise, and for levying rates for the payment of such debts on the rateable property of the Municipality for any purpose within the jurisdiction of the Municipality, or on roads and bridges, or water works outside the limits of the Municipality, but no such By-law shall be valid which is not in accordance with the following provisions and restrictions, except in so far as is otherwise provided by the two next sections of this Ordinance :



- (1) The By-law, if not for the purpose of creating a debt for the purchase of public works, shall name a day when the By-law is to take effect ;
- (2) If not contracted for lighting, drainage or water works, or for purchase of public works, the whole of the debt and the obligations to be issued therefor shall be made payable in twenty years at the furthest from the day on which the said By-law takes effect, and if the debt is contracted for lighting, drainage or water works the same shall in like manner be paid in thirty years at furthest from the day on which the By-law takes effect ;
- (3) The By-law shall set forth a certain specific sum to be raised in each year during the currency of the debt, which annual sum shall be sufficient to discharge the several instalments of principal and interest accruing due on such debt, as the said instalments and interest become respectively payable according to the terms of the By-law ;
- (4) No future increase of the rateable property within the Municipality, nor any extra income of any nature or interest whatsoever, from any work whatsoever, stock, share, or interest therein, shall be taken into account in estimating the rateable property ; nevertheless, if by reason of the increase or decrease in the valuation of property in the Municipality, the annual rate as hereinbefore provided should require to be greater or less as the case may be, the rate may be increased or decreased accordingly ;
- (5) The By-law, unless it is for a work payable by local assessment, shall recite the amount and object of the debt, the amount to be raised annually, the value of the rateable property according to the last revised assessment roll, the amount of the existing debt of the Municipality, the interest and principal separately, and how much, if any, of each is in arrear.
- (6) Provided that all By-laws for contracting debts, which do not provide for the re-payment thereof within the financial year, shall receive the assent of of the Lieutenant-Governor in Council after the final passing thereof by the Council of the Municipality.

195. All By-laws passed by any Municipality for creating debt, under the provisions of the North-West Municipal Ordinances of 1883 and 1884, are hereby held to be valid, and the provisions of this Ordinance shall apply thereto.

196. If the By-law is for work payable by local assessment, it shall recite :

- (1) The amount of the debt which such By-law is intended to create and the object for which it is to be created :
- (2) The total amount required by this Ordinance to be raised annually by special rate for paying the debt and interest under the By-law :
- (3) The value of the whole real property rateable under the By-law as finally determined as aforesaid :
- (4) The annual special rate in the dollar, or in the case of towns and cities, on the foot frontage or otherwise, as the case may be for paying the interest and creating a yearly sinking fund for paying the principal of the debt, or for discharging instalments of principal, according to the provisions of this Ordinance ; or in case the debt is payable by instalments annually, for paying the same, principal and interest, respectively, as they become due ;
- (5) That the debt is created on the security of the special rate settled by the By-law, and on that security only.

197. In any case of passing a By-law for contracting a debt or borrowing money for any purpose, the Council may in its discretion make the principal of such debt repayable by annual instalments during the currency of the period, in no case to exceed thirty years, as heretofore provided, within which the debt is to be discharged, such instalments to be of such amount that the aggregate amount payable as principal and interest in any year shall be equal, as nearly as possible, to what is payable for principal and interest during each of the other years of such period, and may issue the debentures of the Municipal corporation for the amounts and payable at the times corresponding with such instalments together with interest, as may be provided in such By-law.

198. Such By-law shall set forth the annual special rate to be raised in each year during the currency of the debt, which shall be sufficient according to the amount of rateable property appearing by the last revised assessment roll to discharge the several instalments of principal and interest accruing due on said debts as the said instalments become respectively payable according to the terms of such By-law; and in cases within this section it shall not be necessary that any provision be made for the creation of a sinking fund.

199. No officer of any Municipality shall neglect or refuse to carry into effect any By-law for paying a debt under cloak of a By-law illegally attempting to repeal such first By-law, or to alter the same so as to diminish the amount to be levied under it.

### *Corrupt Practices.*

200. The following persons shall be guilty of corrupt practices :—

201. Any person who, by himself or his agent, gives or lends, or promises to give or lend any money or valuable consideration, or gives to any person intoxicating liquor to induce him to vote or refrain from voting, or who shall give, offer, or procure any office, place of employment to or for any voter, or on his behalf, in order to induce any voter to vote or refrain from voting at any election under this Ordinance or at any voting on any By-law, or who shall advance, or pay, or cause to be advanced or paid, any money, any portion of which was or shall be employed in bribery at any election under this Ordinance or at any voting on any By-law shall be guilty of corrupt practices.

202. Any person who shall before, during, or after any Municipal election or the voting on any By-law, either by himself or by any one in his behalf, directly or indirectly, receive, agree or contract for any money, gift, loan, consideration, employment or office, for himself or for any other person, for voting or for refraining from voting, or for having induced any other person to vote or refrain from voting at any Municipal election or on any By-law under this Ordinance, shall be guilty of corrupt practices.

203. Any person who shall hire any teams, horses, carriages, or other vehicles for the purposes of conveying electors to or from any polls for voting at a Municipal election or upon any By-law under this Ordinance, shall be guilty of corrupt practices.

204. Any person who shall directly or indirectly, either by himself or his agent, make or use or threaten any force, violence or restraint, or threaten the infliction by himself or through his agent, or through any other person, of any injury, damage or loss, or in any way, manner or practice intimidate or threaten intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting or who shall in any way prevent or otherwise interfere with the free exercise of the franchise of any voter, shall be guilty of corrupt practices.

205. Any candidate elected at any Municipal election who shall be found guilty by the Stipendiary Magistrate of corrupt practices shall forfeit his seat, and shall be rendered ineligible as a candidate at any Municipal election for two years thereafter. The vote of every person found guilty upon any trial or inquiry as to the validity of an election or a By-law shall be void, and any person so found guilty shall be disqualified from voting at any Municipal election or upon any By-law for the next succeeding two years.

206. In addition to the penalties hereinbefore imposed, any person found guilty of corrupt practices shall incur a penalty of not less than twenty-five nor more than one hundred dollars.

207. Any trial or inquiry on a charge of corrupt practices under this

Ordinance shall be had on petition before the Stipendiary Magistrate in manner similar to proceedings to be taken to quash a By-law, and proceedings must be commenced within thirty days after the offence has been committed.

### *Towns.*

208. Whenever a town is incorporated by Ordinance of the Lieutenant-Governor-in-Council, all the powers conferred upon Municipalities by this Ordinance shall extend thereto, and such town shall have power to pass By-laws :

- (1) To establish a fire department, to appoint the officers thereof, regulate and provide their remuneration, and prescribe their duties ;
- (2) To provide protection from fire by the purchase of engines and equipment for the extinguishment and suppression of fires ;
- (3) To compel the inhabitants to assist and aid in the extinguishment of fires ; to pull down and raze buildings in the vicinity of fires, for the purpose of preventing the spreading of the same ;
- (4) To regulate fire districts ;
- (5) To make fire limits within which wooden buildings may not be erected ;
- (6) Generally to establish such measures as the safety and welfare of the town may require for the prevention and extinguishing of fires ;
- (7) To purchase, control, erect or build parks and cemeteries ;
- (8) To control and build sewers, drains, ditches and water courses ;
- (9) To build and repair sidewalks ;
- (10) To prevent the incumbering of streets or other public places by buggies, vehicles, wagons, agricultural implements, lumber and other articles ;
- (11) To regulate the rate or pace of driving within the Town ;
- (12) To compel the removal of dirt, filth, dust or rubbish off the streets, lanes, alleys or by-ways by the party depositing the same, or by the owner or occupant before whose property it is, or in default, to order the same at his expense ;
- (13) To compel the removal of anything deemed dangerous to the lives of the inhabitants ;

- (14) To license porters, water dealers, or carriers, or common carriers, draymen, hackmen, omnibus drivers and guides, and regulate the same;
- (15) To establish markets and restrain selling on the streets ;
- (16) To license or prohibit shows, circuses, theatres or caravans ;
- (17) To create a Board of Health, and to define and regulate their, duties;
- (18) To license livery stables, sale stables, refreshment houses hotels and places of public resort or accommodation ;
- (19) To build waterworks and regulate the same, but not to grant exclusive privileges for the same ;
- (20) To erect lamp posts and lamps, and provide for lighting the town ;
- (21) To appoint policemen, watchmen and patrols, and regulate and define the duties for the same ;
- (22) To make and regulate the use of public wells, cisterns and reservoirs ;
- (23) For regulating the assize of bread, and preventing the use of deleterious materials in making bread, and for providing for the seizure and forfeiture of bread made contrary to By-law ;
- (24) For restraining and regulating the running at large of dogs, and for imposing a tax on the owners, possessors, or harbourers of dogs ;
- (25) For killing dogs running at large contrary to the By-laws ;
- (26) And generally to make and establish all such By-laws and regulations for the government and good order of the Town, the suppression of vice and immorality, the protection of property, and the promotion of health, not inconsistent with the Ordinances of the North-West Territories, as it shall be deemed expedient.

209. The Council shall be a Board of Health, and as such may provide hospitals and regulate the burial of the dead ; may remove or cause to be removed any unwholesome or nauseous thing; may regulate the location and management of slaughter houses, subject to any Ordinance of the North-West Territories; may require the owners or occupants of lands to remove dead animals, stagnant water or other unwholesome thing, and prevent the putting of anything into any stream or pond, or

body of water within the Town or any stream or body of water, from which water is supplied for any purpose, which may be deemed prejudicial to health.

210. The Council may, in addition to the other Municipal officers authorized by this Ordinance, appoint a Street Surveyor, whose duty it shall be, under authority of the Council, to oversee all work on streets, alleys, lanes, by-ways, sidewalks, drains, water-courses and ditches, and generally any work to be done of a public nature.

211. The Council of every Town may by by-law assess against the property of owners to be benefited thereby, the whole or any part of any public improvement or work, such as the laying out or widening of any street, lane, alley or by-way, public square, building site, walks grading and paving streets, building or enlarging drains, sewers, water-courses and ditches, and appropriate land therefor, the property of individuals, both within and without the Municipality; but nothing in this Ordinance shall be taken to allow a Council to enter on or appropriate any land the property of another, without first paying the owner thereof the value thereof in full, the same to be determined by arbitration as in this ordinance provided.

212. Every assessment made under authority of the preceding section for work or improvement or repairs to be done, shall be made by the Street Surveyor.

213. The assessment shall be made upon such property as he deems is directly benefited by such improvement, and no such work or improvement shall be undertaken unless by a petition to the Council of two-thirds of the number of those to be benefited thereby, and who would be assessed therefor, except in case of repairs to work done previously and for which property owners have contributed and then only in a sum not exceeding two hundred dollars, which shall be rateably assessed on the basis of the original assessment.

214. Assessments made under the three preceding clauses shall be signed by the Mayor and Clerk and published weekly for four consecutive weeks in some newspaper published in the Town, or if there be none, then in the newspaper published nearest the Town in which the assessment is made, and in all other respects as to notice, demand, appeal, provision and collection, shall be subject to the provisions of this Ordinance.

215. The Mayor and Council shall be the Court of Revision of the Town.

216. The rate in any year to be levied against property of every kind in Towns, including improvement tax, general fund, local fund and

school rates, together with interest on the debt and sinking fund, shall not exceed two and a half cents on the dollar.

*Seal.*

217. Every Municipal corporation erected under this Ordinance shall have a corporate seal, which shall be kept in the custody of the Clerk of the Municipality, and said seal shall be chosen by a resolution of the Council.

*Road Overseers.*

218. It shall be the duty of the Road Overseer, so soon thereafter as convenient after having received a list thereof from the Clerk, to notify parties, liable for the performance of such statute labor, of the same, and to call upon them to attend him at a certain time and place to perform the labor imposed upon them by the Council.

219. All statute labor imposed by this Ordinance shall be done under the direction of the Road Overseer who shall be liable to the Council for the due performance of the same, and shall report to the Council any refusal or neglect of parties assessed to perform the labor imposed upon them.

220. Persons assessed as non-residents shall be deemed to have commuted the statute labor for which they are liable at the rate of two dollars per day, and the amount of the commutation shall be a charge, and shall be collectable against real property, goods and chattels of non-residents as other rates.

221. Every other person liable for the performance of statute labor under this Ordinance shall, within fourteen days after the final revision of the assessment roll, notify the Clerk in writing of his intention to commute the same by the payment as hereinbefore provided, or, failing to do so, he shall be deemed bound to perform the amount of statute labor imposed upon him, when called upon by the Road Overseer, or at such other time as he may direct.

222. Any person liable for the performance of statute labor, except as hereinbefore provided, neglecting or refusing to perform the same when called upon so to do by the Road Overseer appointed by the Council, shall be liable to a penalty of four dollars per day, for every day of statute labor imposed upon him, which he shall so neglect or refuse to perform, which penalty may be recovered in a summary manner before a Justice of the Peace.

223. All statute labor to be done under this Ordinance shall be performed on the public roads of the Municipality, or on the bridges, drains, ditches or water-courses therein, to benefit and improve the same, or as may be determined by the Council.

*Poundkeepers.*

224. The Council of Every Municipality shall pass By-laws for regulating the remuneration, fees, charges and duties of Poundkeepers, and the security to be given by them for the performance of the same.

- (1) The providing sufficient yards and enclosures for the safe-keeping of such animals as it may be the duty of the Pound-keeper to impound;
- (2) For restraining and regulating the running at large or trespassing of any animals and providing for impounding them and for causing them to be sold in case they are not claimed within a reasonable time or in case the damages, fees and expenses are not paid;
- (3) For appraising the damages to be paid by the owners of animals impounded for trespassing contrary to By-law;
- (4) For determining the compensation to be allowed for services rendered in carrying out the provisions of any By-law with respect to animals impounded or distrained and detained in possession of the distrainer.

*General Provisions.*

225. Every Municipality shall have jurisdiction over all township lines and roads within the same, and the Lieutenant-Governor or the Lieutenant Governor in Council may give a Municipality jurisdiction over any roads, or river or stream dividing Municipalities, or adjacent thereto when not dividing Municipalities, and may determine what portion of roads or rivers or streams dividing Municipalities erected under this Ordinance shall be within the jurisdiction of each;

226. Municipalities may control and license Ferries and Bridges erected or authorized by them within their jurisdiction and pass By-laws regulating the fees to be collected thereon, and in case of a stream dividing Municipalities, the Lieutenant-Governor in Council shall determine which Municipality shall have jurisdiction over the same.

227. A candidate for election as Councillor or Mayor or any five voters under this Ordinance may within fourteen days after the Declaration of Election by the Returning-Officer protest the right of a Councillor or Mayor declared elected to act as such, by serving a notice on the Clerk of the Municipality, and on the person whose seat is protested, in writing, setting forth the grounds of such protest, but the party whose seat is protested shall continue to hold office if declared elected until the final determination of the matter by the Stipendiary Magistrate.



228. Every notice served on the Clerk of the Municipality, under the provisions of the foregoing section, shall be accompanied by the sum of fifty dollars, as security for costs, which sum shall be subject to the order of the Stipendiary Magistrate.

229. All proceedings under the above section shall be had by petition before a Stipendiary Magistrate, in which shall be set forth the facts and reasons alleged in support of the protestation, and the Stipendiary Magistrate shall hear such evidence as may be adduced and thereupon may amend the Declaration of the Returning-Officer or confirm the same, or declare the election void, and order a new election with such costs against either party as he may determine.

230. No Municipal Council shall make any appointment to office or arrangement for the discharge of the duties thereof by tender or to applicants at the lowest remuneration.

231. All officers appointed by a Council shall hold office until removed by the Council, or as expressed by By-law appointing the same, and shall in addition to the duties assigned to them in this Ordinance, perform all other duties required of them by Ordinance of the North-West Territories.

232. The Municipal Council, in addition to defining the duties of its officers, shall exact security from the treasurer and collector and such other officers as they may determine for the faithful performance of their duties, and it shall be the duty of every Council at its first meeting, or within a reasonable time thereafter, to examine and renew the securities given by its officers.

233. Municipal officers shall be liable for their acts, and for damages arising from their refusal or neglect to discharge their duties to the Municipality, in addition to penalties imposed by violation of any of the provisions of this Ordinance.

234. If any officer of any Municipality refuses or neglects to perform any duty required of him by this Ordinance, he shall, on conviction thereof before any Justice of the Peace having jurisdiction in the Municipality of which he is an officer, be fined in a sum not exceeding one hundred dollars and costs, such penalty to be paid into the General Fund of the Municipality.

### *Arbitrations.*

235. The appointment of all Arbitrators shall be in writing under the hand of the appointors, or in the case of Municipalities, under the corporate seal, and authenticated in like manner as By-laws.

236. Where arbitration is directed or authorized by this Ordinance,

either party may appoint an arbitrator and give notice thereof in writing to the other party, calling upon him to appoint an Arbitrator on his behalf; and, a notice to a Municipality shall be given to the head thereof.

237. The two Arbitrators appointed by or for the parties, shall within seven days from the date of the appointment of the last named Arbitrators, appoint in writing a third, in case the two appointed are not able to come to a final determination.

238. Where more than two parties are interested, each of them shall appoint an Arbitrator, and if there should be an equal number of Arbitrators, the Arbitrators so appointed shall appoint another, or in default, at the expiration of twenty-one days after the last of such Arbitrators has been appointed, the Lieutenant-Governor in Council, or the Lieutenant-Governor, may, on application of any one of the parties interested, appoint such Arbitrators.

239. In any case of neglect or refusal of any party to appoint an Arbitrator, when notified so to do, or in case of two parties appointed and being unable to agree upon a third, the Lieutenant-Governor shall, upon application of any one of the parties interested in such Arbitration, appoint a party or parties to act for and on behalf of the party so refusing, or a third Arbitrator, as the case may be.

240. Within ten days after the appointment of the third Arbitrator, the Arbitrators appointed shall meet to hear and determine the matter referred to them.

241. In any of the cases hereinbefore provided, the Arbitrators shall make their award within one month after the appointment of the third Arbitrator.

242. No member, officer or person in the employment of any Municipality interested in any arbitration shall be appointed to act, as such Arbitrator.

243. Every Arbitrator, before proceeding to try the matter of the Arbitration, shall take and subscribe the following oath before any Justice of the Peace or Notary Public:

I, A. B., do swear that I will well and truly try the matters referred to me by the parties, and a true and impartial award make in the premises according to the evidence, to the best of my skill and knowledge. So help me God.

244. All evidence taken by any Court of Arbitration under this Ordinance, shall be taken on oath, and any Arbitrator is hereby empowered to administer the same.

245. A majority of the Arbitrators so appointed shall make the award, and a copy thereof shall be furnished to each of the parties interested in the matter referred to Arbitration.

246. The Arbitrators shall have power to award the payment by any of the parties to the other of the costs of the arbitration, or of any portion thereof, and may direct the payment of a fixed sum. See Schedule "A" to this Ordinance.

247. Full notes of the evidence taken by Arbitrators under this Ordinance shall be made, and, together with any documents submitted in proof of any allegations made on behalf of parties interested, shall be retained by the Chairman of the Court of Arbitration, or until an order is issued by a Stipendiary Magistrate or some court of competent jurisdiction, to produce the same in case of an appeal from the decision of the Arbitrators.

248. Every award under this Ordinance shall be in writing, and under the hands of all or of a majority of the Arbitrators, and shall be subject only to the jurisdiction of a Stipendiary Magistrate, or court of competent jurisdiction.

249. An award made by Arbitrators under this Ordinance may be referred back by the Stipendiary Magistrate or Court for amendment or for additional evidence, or may be set aside on questions of law, but not on questions of fact.

### *Sale of Land for Taxes.*

250. The Clerk of every Municipality shall furnish to the Sheriff for the district in which the Municipality is situated a list of all the lands in this Municipality in respect of which any taxes shall have been in arrears for two years preceeding the first day of January in that year, and the said list shall be so furnished on or before the first day of February in every year, and shall be headed in the words following: "List of Lands liable to be sold for Arrears of Taxes in the year one thousand eight hundred and \_\_\_\_\_," and for the purposes of this Ordinance, the taxes for the first year of the two which have expired under the provisions of this Ordinance on any land to be sold for taxes shall be deemed to be due for two years, although the same may not have been placed on the Collector's roll till some month in the year later than the first day of January, or notwithstanding the time for the payment of taxes may have been extended by the Council of the Municipality.

251. The list so furnished to the Sheriff shall contain all the charges for all rates levied by the Municipality, or so much thereof as remain unpaid, together with any additional percentage which may have been charged by the Council against taxes remaining unpaid after a given period, together with interest on the whole amount then due.

252. The Clerk of the Municipality shall keep a duplicate of the list so furnished to the Sheriff in his office, which shall be subject to the inspection of any person requiring to see the same.

253. After the said list has been furnished to the Sheriff as aforesaid no more money on account of any arrears of taxes included in the said list shall be received by any officer of the Municipality to which the list belongs.

254. The collection of the arrears shall thenceforth belong to the Sheriff alone, and he shall receive payment of such arrears in whole, but in no case shall he receive a part unless the whole arrears be paid, or satisfactory proof be produced of previous payment, or that an erroneous charge has been made in whole or in part, and the Sheriff shall give a receipt therefor, specifying the amount paid, for what period, the description of lot or parcel of land, and the date of payment.

255. Any Municipality may by By-law remit the whole or any part of the taxes so in arrears within the Municipality and upon the passing of such a by-law the Clerk of the Municipality shall forthwith transmit a copy of such By-law to the Sheriff, and the Sheriff or such officer as acts for him, shall then collect only so much of said taxes in arrears as are not by the By-law remitted.

256. The Sheriff shall on demand give to the owner of any land charged with arrears of taxes a written statement of the arrears as appears in his office at that date, and he may charge a fee of twenty cents for each search on every parcel of land not exceeding four, and ten cents for every parcel exceeding four.

257. The Sheriff shall keep a separate book or books for each Municipality, in which he shall enter all the lands in the Municipality on which it appears from the list furnished to him by the Clerk, that there are any taxes remaining unpaid, and the amounts so due, and he shall, in every year before the first day of May, balance his book and shall show the total amounts then due against each parcel or piece of land, together with interest thereon.

258. The Sheriff shall annually on or before the fifteenth day of August prepare a list of all lands against which arrears of taxes remain unpaid in his office, and shall add thereto a commission of two and one-half per cent., for selling, and a proportionate cost of the publication of the list of any advertising required to be done by him to carry out the provisions of this Ordinance, the list to state under separate heads the Municipality, lot, or section, township, range, number of acres, or size of lot, amount in arrears, and costs, and total amount against the land.

259. The lists so prepared by the Sheriff shall be headed, "Lists of

Lands to be sold for Taxes," and shall, in addition to the provisions hereinbefore contained, state when the lands are to be sold and where, and the said lists shall be published for eight weeks in the North-West Gazette, or in some weekly paper published in the Capital of the North-West Territories, or if there is no such weekly paper, then in some newspaper to be designated by the Lieutenant-Governor, and shall cause to be posted up a similar list in at least four conspicuous places in each Municipality, and in the office of the Clerk of the Municipality where the lands or any of them are situated that are advertised to be sold.

260. The Sheriff shall, within one month after the first publication of the sale as hereinbefore provided, proceed to sell the lands by public auction, and the lands shall be offered for sale in lots or parcels as the case may be against which the arrears of taxes, together with costs and charges stand.

261. Where the title to any land sold for arrears of taxes is in the Crown, the deed therefor, in whatever form given, shall be held to convey only such interest as the Crown may have given or parted with, or may be willing to recognise or admit that any person possesses under any color of right whatever; and the Municipality on whose behalf any land shall be sold for arrears of taxes as aforesaid shall, in case of any such sale being declared invalid, be liable only for the purchase money actually paid therefor to the Municipality and interest thereon as for damages or otherwise.

262. It shall not be the duty of the Sheriff to make enquiry before effecting the sale of land for taxes to ascertain whether or not there is any distress on the land, nor shall he be bound to inquire into nor form any opinion of the value of the land.

263. The Sheriff shall offer each lot or parcel of land separately, and shall state the whole amount due on said lot or parcel, and shall sell the whole or so much as is necessary to the party who pays the whole of the amount due on account of said arrears, costs and charges.

264. The land adjudged to be sold by the Sheriff under this Ordinance shall be, (when the land is not sub-divided into lots as defined in this Ordinance,) commencing at the south-east corner, and shall conform as nearly as may be to the shape and number of acres in the lot or parcel of land offered for sale, and shall include the buildings or other improvements thereon, and when the land has been sub-divided into lots, if the whole lot is not sold, the amount adjudged to be sold shall be a strip off the whole southerly side of said lot, and shall include the buildings or other improvements thereon.

265. All sales of lands for taxes shall take place and be holden within

the limits of the Municipality where the land to be sold is situated, unless otherwise directed by the Lieutenant-Governor in Council.

266. The owner or agent of any land may pay the arrears, with costs and charges against the same, at any time before the same are sold.

267. The Sheriff may adjourn the sale from time to time, but at the time of such adjournment shall publicly state at what time the sale shall be resumed.

268. If the purchaser of any land fails immediately to pay the arrears costs and charges against any land, the Sheriff shall forthwith put up the property for sale.

269. The Sheriff, after selling any lands for taxes, shall give a certificate under his hand to the purchaser, stating what part of the land has been sold, describing the same as in notice of sale, the quantity sold, the sum for which it has been sold, and further stating that the land so sold will be conveyed by the Sheriff to the purchaser or his assigns, on his or their demand, at any time after two years if the same be not previously redeemed.

270. The purchaser shall, on receipt of the Sheriff's certificate, become the owner of the land, so far as to have all the necessary rights of action and powers for protecting the same for spoliation or waste until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber upon the land or otherwise injure the land, nor shall he do so himself, but he may use the land himself without deteriorating its value, provided that the purchaser shall not be liable for damage done to the property without his knowledge.

271. The owner, or his agent appointed by him in writing, may redeem any land sold by the Sheriff for arrears of taxes at any time after the sale thereof and before the expiration of two years, by paying to him the full amount for which the land was sold and interest thereon at the rate of twenty per centum per annum, to be computed from the date of sale, and an additional commission to the Sheriff of two and one-half per cent.

272. From and after the payment to the Sheriff of the amount of redemption money as aforesaid, the purchaser shall cease to have any further rights in or to the lands in question.

273. The purchaser shall be entitled to receive the full amount of purchase money from the Sheriff for the land so redeemed, together with interest to be computed at the rate of twenty per cent. per annum, from

the date of the certificate given to him by the Sheriff to the date of the redemption.

274. If the land be not redeemed within the period allowed for its redemption, being two years from the date of sale, exclusive of that day, then on demand of the purchaser or his assigns or other legal representatives at any time afterwards and on payment of two dollars, the Sheriff shall prepare and execute and deliver to him or them a deed in duplicate of the land sold.

275. Such deed shall be in the form, or to the same effect, as in Schedule "B" to this Ordinance, and shall state the date and cause of sale and the price, and shall describe the land according to the description in the certificate, and such deed shall have the effect of vesting the land in the purchaser or his heirs and assigns or other legal representatives in fee simple, and no such deed shall be invalid for any error or miscalculation in the amount of taxes or interest thereon in arrears or any error in describing the land.

276. "Sheriff" in this Ordinance shall mean the Sheriff for the North-West Territories, or for the district in which the Municipality is situated, or the Sheriff's officer duly appointed and authorized by law to act for him.

277. The Sheriff shall, within one month after the receipt of any money on account of arrears of taxes, pay the same to the Treasurer of the Municipality on whose account the money was received.

278. The Sheriff, in addition to the fees, commissions and charges for selling, shall be entitled to receive a commission from the Municipality of two and one-half per cent. on all moneys collected on account of arrears of taxes, and may deduct the same from any money remaining in his hands to the credit of the Municipality.

### *Municipal. Boundaries.*

279. The Municipality of "Moosomin" shall be composed of the following described area:—

Range 30, west of the first Principal Meridian;

Townships 10, 11, 12, 13, 14, 15, 16, 17, 18;

Range 31 west of the first Principal Meridian;

Townships 10, 11, 12, 13, 14, 15, 16, 17, 18;

Range 32 west of the first Principal Meridian;

Townships 10, 11, 12, 13, 14, 15, 16, 17, 18;

Range 33 west of the first Principal Meridian;

Townships 10, 11, 12, 13, 14, 15, 16, 17, 18;

Range 34 west of the first Principal Meridian;

Townships—Any fractional parts of Townships from 10 to 18 inclusive in said range.

amended  
187-1886

280. The Municipality of "Whitewood" shall be composed of the following described area:

Range 1, west of the second Principal Meridian;  
Townships 10, 11, 12, 13, 14, 15, 16, 17, 18;  
Range 2 west of the second Principal Meridian;  
Townships 10, 11, 12, 13, 14, 15, 16, 17, 18;  
Range 3 west of second Principal Meridian;  
Townships 10, 11, 12, 13, 14, 15, 16 and that part of 18 not included in the Indian Reserve;

amended  
1887-1890

281. The Municipality of "Broadview" shall be composed of the following described area:

Range 4 west of the second Principal Meridian;  
Townships 10, 11, 12, 13, 14, 15, 16;  
Range 5 west of the second Principal Meridian;  
Part of Township 10, not included in the Indian Reserve, and Townships 11, 12, 13, 14, 15, 16;  
Range 6 west of the second Principal Meridian;  
Part of Township 10 not included in the Indian Reserve, and Townships 11, 12, 13, 14, 15, 16, and part of Township 17, not included in Indian Reserve;  
Range 7 west of the second Principal Meridian;  
Part of Township 10 not included in Indian Reserve and Townships 11, 12, 13, 14, 15, 16, 17, 18, 19A and 19;

282. The Municipality of "Wolseley" shall be composed of the following described area:

Range 8 west of the second Principal Meridian;  
Townships 12, 13, 14, 15, 16, 17, 18, 19A, 19;  
Range 9 west of the second Principal Meridian;  
Townships 12, 13, 14, 15, 16, 17, 18, 19A, 19;  
Range 10 west of the second Principal Meridian;  
Townships 12, 13, 14, 15, 16, 17, 18, 19A, 19;

283. The Municipality of "Indian Head" shall be composed of the following described area;

Range 11 west of the second Principal Meridian;  
Townships 12, 13, 14, 17, 18, 19A, 19;  
Range 12 west of the second Principal Meridian;  
Townships 12, 13, 14, 17, 18, 19A, 19;  
Range 13 west of the second Principal Meridian;  
Townships 12, 13, 14, 17, 18, 19;

284. The Municipality of "South Qu'Appelle" shall be composed of the following described area:

Range 14, west of the second Principal Meridian;



Townships 14, 15, 16, 17, 18, 19.

Range 15, west of the second Principal Meridian:

Townships 14, 15, 16, 17, 18, 19, and all that part of 20 not included in the Indian Reserve.

Range 16, west of the second Principal Meridian;

Townships 14, 15, 16, 17, 18, 19, and all that part of 20 not included in the Indian Reserve.

285. The Municipality of "Wascana" shall be composed of the following described area:

Range 17, west of the second Principal Meridian.

Townships 15, 16, 17, 18, 19;

Range 18, west of second Principal Meridian,

Townships 15, 16, 17, 18, 19;

Range 19, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19, excepting that area erected into the Municipality of the Town of Regina;

Range 20, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19, excepting that area erected into the Municipality of the Town of Regina;

Range 21, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19;

Range 22, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19.

286. The Municipality of "Moose Jaw" shall be composed of the following described area:

Range 23, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19;

Range 24, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19;

Range 25, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19;

Range 26, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19, excepting that area erected into the Municipality of the Town of Moose Jaw;

Range 27, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19;

Range 28, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19;

Range 29, west of the second Principal Meridian,

Townships 15, 16, 17, 18, 19;

287. The Municipality of "Qu'Appelle" shall be composed of the following described area: Range 11, west of the second Principal Meridian; Townships 20, and all that part of Townships 21, 22 and 23, not included in the Indian Reserve.

Range 12, west of the second Principal Meridian,

continued

amended sec 786

Townships 20, 21, 22, 23;  
 Range 13, west of the second Principal Meridian;  
 Townships 20, 21, 22, 23;  
 Range 14, west of the second Principal Meridian;  
 Townships 20, 21, 22, 23;  
 Range 15, west of the second Principal Meridian,  
 Townships—that part of 21 North Qu'Appelle River, 22, 23;  
 Range 16, west of the second Principal Meridian,  
 Townships—that part of 21 North Qu'Appelle River, 22, 23.  
 The provisions of this section adding certain lands to the Municipality of Qu'Appelle, as the same was established by the North-West Municipal Ordinance of 1884, shall not come into effect until the first day of October A. D. 1886.

288. The Municipality of the "Town of Regina" shall be composed of the following area:

Section (19) Nineteen and the South half ( $S\frac{1}{2}$ ) of Section Thirty (Sec. 30), in Township Seventeen (17), in Range (19) Nineteen, West of the Second initial Meridian, and Section Twenty-four (24) and the South half ( $S\frac{1}{2}$ ) of Section Twenty-five (25) in said Township Seventeen (17), in Range 20, West of said Second Meridian.

289. The Municipality of "The Town of Moose Jaw" shall be composed of the following area:

Sections numbered Thirty-two (32) and Thirty-three (33), in Township Sixteen (16), in Range Twenty-six (26), West of the Second Principal Meridian, in the said North-West Territories.

290. The Municipality of "Pheasant Plains" shall be composed of the following described area:

Range 6, west of the second Principal Meridian,  
 Townships 19, north of the Qu'Appelle River, and 20, 21, 22, 23;  
 Range 7, west of the second Principal Meridian,  
 Townships 19, 20, 21, 22, 23;  
 Range 8, west of the second Principal Meridian,  
 Townships 20, 21, 22, 23;  
 Range 9, west of the second Principal Meridian,  
 Townships 20, 21, 22, 23;  
 Range 10, west of the second Principal Meridian,  
 Townships 20, and all that part of 21 and 22, not included in the Indian Reserve.

291. No liability heretofore incurred nor liability existing which shall operate as a debt against a Municipality now established shall attach to any of the lands added to such Municipality by this Ordinance, and any existing debt for which any Municipality is now liable or any by-law which may be now or hereafter passed for the purpose of rais-

ing money by way of loan, and which shall come into operation and take effect before the passing of this Ordinance, or shall come into effect under the provision thereof shall attach to any of the lands or property therein liable to assessments, added to a Municipality by this Ordinance, and the rates and assessments, authorized by any by-law, shall be levied upon the property which would be liable therefor if this Ordinance had not passed.

*Oaths and Declarations to be taken under this Ordinance.*

292. Form of affidavit to be appended to Petitions for erection of Municipalities:

I, \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_  
in the North-West Territories \_\_\_\_\_ solemnly swear that the total  
number of residents in the area described in the annexed petition is \_\_\_\_\_;  
That the total number \_\_\_\_\_ have signed the annexed petition;  
That I was personally present and did see the parties sign the same.

293. Every person elected or appointed under this Ordinance to any office requiring a qualification of property in the incumbent shall, before he takes the declaration of office or enters on his duties, make and subscribe a solemn declaration to the following effect.

I, A. B., do solemnly swear that I am a British Subject, and have to my own use and benefit, in my own right (or in the right of my wife) as proprietor or tenant at the time of my election or appointment, as the case may be, to the office of \_\_\_\_\_ hereinafter referred to, such an estate as does qualify me to act in the office of \_\_\_\_\_ and that such estate is (naming the nature of it) and is of the value of \_\_\_\_\_ dollars over and above all charges, liens and incumbrances affecting the same.

(Signed)

A. B.

294. Every member of the Municipal Council, Mayor, Chairman, Clerk, Assessor, Collector, constable shall, before entering on the duties of his office, make and subscribe a solemn declaration to the following effect:

I, \_\_\_\_\_ do solemnly declare and promise that I will truly faithfully and impartially, to the best of my knowledge and ability, execute the office of \_\_\_\_\_ to which I have been elected or appointed, (as the case may be) in this Municipality, and that I have not received and will not receive any payment or reward or promise of such for the exercise of any partiality or neglect or undue execution of the said office, and that I have not by myself or on behalf of any other person, either directly or indirectly, any interest in any contract with or on behalf of the said corporation.

295. The Solemn Declaration to be made by every auditor shall be as follows:

I, A. B., having been appointed to the office of Auditor for the Municipal Corporation of \_\_\_\_\_ do hereby promise and declare, that I will faithfully perform the duties of such office according to the best of my judgment and ability, and I do solemnly declare that I had not, either directly or indirectly,

any share or interest whatever in any contract with, by or on behalf of such Municipal Corporation during the year preceding my appointment, (except as Auditor, if such be the case), and that I have not any contract with the said Corporation except that of Auditor for the present year.

296. The head and every member of the Council and the subordinate officers of the Municipality shall make the Declaration of Office and Qualification before some Justice of the Peace or Notary Public, not being a member of the Council, and the Justice of the Peace or Notary Public shall give the necessary certificate of the same having been duly made and subscribed.

### *Executions Against Municipal Corporations.*

297. Any writ of execution against a Municipal Corporation may be endorsed with the direction to the Sheriff to levy the amount thereof by rate and the proceedings thereon shall be the following:

- (1.) The sheriff shall deliver a copy of the writ and endorsement to the Treasurer of the Municipality with a statement in writing of the Sheriff's fees and of the amount required to satisfy such execution, including the amount of interest thereon, and demand the payment of the same;
- (2.) In case the amount demanded is not paid to the Sheriff within thirty days after the service, the Sheriff shall examine the assessment roll of the Corporation, and shall in like manner as rates are struck for general Municipal purposes, strike a rate sufficient in the dollar to cover the amount due on execution with such addition to the same, as the sheriff deems sufficient to cover the interest, his own fees and the collector's percentage, up to the time when such rate will probably be available;
- (3.) The Sheriff shall thereupon issue a precept or precepts under his hand and seal of office directed to the collector or collectors respectively of the Municipality and shall annex to every precept the roll of such rate and shall by such precept after reciting the writ, and that the corporation had neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector or collectors, within their respective jurisdiction, to levy such rate at the time and in the manner by law required in respect to the general annual rates.
- (4.) In case at any time for levying the annual rates, next after receipt of such precept, the collectors have a general rate roll delivered to them for such year, they shall add a column thereto headed; Execution rate in A. B. vs. the Corporation of the Municipality of ———, as the case may be, adding a similar column, if there are more executions than one, and shall insert therein the

amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall within the time they are required to make the returns of the general annual rate, return to the sheriff, the precept with the amount levied thereon, deducting their percentage.

- (5) The Sheriff shall, after satisfying the execution and all fees thereon, pay any surplus, within ten days after receiving the same, to the Treasurer for the general purposes of the Municipality;
- (6) In case the Collector of any Municipality, against which an execution has issued, is not paid by percentage fixed by By-law of the Municipality, he shall be paid for such collections a sum not exceeding two and a half per cent.

298. The Clerk, Assessors and Collectors of the Corporation shall, for the purposes of the carrying into effect, or permitting or assisting the Sheriff to carry into effect the provisions of this Ordinance, with respect to such execution be deemed to be officers of the Court from which such writ issued, and as such, may be proceeded against by attachment, mandamus or otherwise, to compel them to perform the duties hereby imposed upon them.

299. All Ordinances respecting Municipalities heretofore passed are hereby repealed.

300. This Ordinance shall come into force on the first day of February, 1886, except Section 194, which shall not take effect until after the thirtieth day of April next.

301. This Ordinance shall be known and may be cited as "The Municipal Ordinance of 1885."

Election for Mayor, or Alderman, or Councillors (as the case may be).	
Municipality of	
Polling Sub-division (if any) No.	
Ballot No.	
	FOR MAYOR, OR FOR ALDERMAN, OR FOR COUNCILLOR.
1.	JOHN ADAM, Farmer.
2.	WILLIAM BROWN, Builder.
3.	JAMES CAMPBELL, Contractor.
4.	JAMES P. DILL, Merchant.
5.	WILLIAM C. HAMILTON, Lawyer.
6.	WILLIAM D. PERLEY, Farmer.
7.	HUGH RICHARDSON, Operator.

FORM NO. 1.  
(Referred to in Section 47.)  
FORM OF BALLOT PAPER.

**FORM NO. 2.***(Referred to in Section 51.)***DIRECTION FOR GUIDANCE OF VOTERS.**

The Voter will go into one of the apartments provided, and with a pencil make a cross opposite the name or names, on the right hand side of the ballot paper, of the party or parties, for whom he wishes to vote, thus x.

If the Voter votes for more candidates than he is by law entitled to vote for, his ballot paper will be void, unless he discovers the fact before the same is deposited in the ballot box, when he can obtain a new one from the Returning officer.

If the Voter inadvertently spoils a ballot paper, he can obtain a new one, on satisfying the Returning officer of the fact.

If the Voter places any mark on the ballot paper, by which he may afterwards be identified his ballot paper will be void.

The voter after he has made the cross x opposite the name or names of the party or parties for whom he wishes to vote, shall fold up his ballot paper so as to show the initials of the Deputy Returning Officer on the back thereof, but so as to conceal the manner in which he has voted, and shall deliver the same to the Deputy Returning Officer, and shall forthwith quit the polling place.

# FORM NO 3.

*(Referred to in Section 53.)*

# VOTER'S LIST.

[illegible]



## SCHEDULE "A."

(See Section 246.)

Every Arbitrator appointed under this Ordinance shall be entitled to receive a sum for his services of not less than .....	\$5.00 per day of six hours.
Nor more than .....	\$10.00 per day of six hours.
For every meeting where the cause is not proceeded with, but a postponement is made at the request of either party.....	\$2.00
For each hour occupied in such proceedings less or more than six hours.....	At the rate per hour of \$1.
For drawing the award.....	Arbitrators may charge \$5.

## SCHEDULE "B."

(See Section 275.)

To all to whom these presents shall come,  
I, \_\_\_\_\_, of \_\_\_\_\_, in the North-West Territories,  
Sheriff, send greeting.

Whereas, by virtue of authority vested in me by the North-West Municipal Ordinance of 1885, I did on the \_\_\_\_\_, day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_, sell by public auction the land hereinafter mentioned for arrears of taxes and costs and charges thereon to \_\_\_\_\_, of \_\_\_\_\_, in the \_\_\_\_\_ at \_\_\_\_\_ and for the price and sum of \_\_\_\_\_ of lawful money of Canada, on account of the arrears of taxes alleged to be due thereon, up to the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and eighty \_\_\_\_\_, together with costs.

Now know ye that I, \_\_\_\_\_, the said Sheriff, in pursuance of such sale and of the North-West Municipal Ordinance of 1885 and for the consideration aforesaid, do hereby grant, bargain and sell unto the said \_\_\_\_\_ of \_\_\_\_\_ in the \_\_\_\_\_ his heirs and assigns all that certain parcel and tract of land and premises, containing \_\_\_\_\_ being composed (describe the land so that the same can be readily identified.)

In witness whereof I, the said Sheriff, have hereto set my hand and affixed my seal this the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord, one thousand eight hundred and \_\_\_\_\_  
(Signed)

Sheriff.

(Corporate Seal.)

**No. 3 of 1885.***An Ordinance to amend and consolidate as amended  
the School Ordinance of 1884.**Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:—

*Board of Education.*

1. The Lieutenant-Governor in Executive Council may appoint, and constitute a Board of Education for the North-West Territories, composed of five members, two of whom shall be Roman Catholics, and two shall be Protestants, and the Lieutenant-Governor, who shall be chairman.

2. The Members of the Board shall be paid for their services four dollars for each day of attendance at their meetings, and their actual travelling expenses.

3. A majority of the Board of Education shall be a quorum.

4. Any member of the Board absenting himself from the meeting of the Board, or from the meeting of his section, as hereinafter defined, for six months, shall be considered to have resigned his position, and the other member of the section to which he belongs, shall notify the Lieutenant-Governor of the vacancy so caused, and the Lieutenant-Governor shall appoint his successor.

5. It shall be the duty of the Board:—

(1) To meet twice a year at least at Regina;

(2) To appoint Inspectors, who shall hold office during the pleasure of the Board, and to remunerate them for their services;

(3) To appoint a Board or Boards of Examiners for the examination of teachers, whose qualifications shall from time to time be prescribed by the Board of Education;

(4) To provide for the expenses of the Board of Examiners;

(5) To arrange for the proper examination, grading, and licensing of teachers, and the granting of certificates; such certificates to be of three classes, viz., a first, second, and third class certificate and a provisional certificate;

Repealed by 10th Dec 86

- (a) Every such certificate of qualification shall have the signature of a Member of the Board, but no certificate shall be given to any teacher who does not furnish satisfactory proof of good moral conduct;
- (6) To appoint a Secretary to the Board, and to provide for his salary;
- (7) To make from time to time such regulations as they may think fit, for the general organization of schools;
- (8) To make regulations for the registering and reporting of daily attendance at all schools;
- (9) To cause to be kept a proper record of the proceedings of the Board;
- (10) To determine all Appeals from the decisions of Inspectors of Schools, and to make such orders thereon as may be required;
- (11) To prescribe the form of school register for all schools;
- (12) To make regulations for the calling of their meetings from time to time, and prescribe the notices thereof to be given to members.
6. The Board of Education shall resolve itself into two sections, the one consisting of the Protestant, and the other of the Roman Catholic members thereof, and it shall be the duty of each section:
- (1) To have under its control and management the schools of its section, and to make from time to time such regulations as may be deemed fit for their general government, and discipline, and the carrying out of the provisions of this Ordinance;
- 2) To cancel the certificate of a teacher upon sufficient cause;
- (3) To select, adopt, and prescribe a uniform series of text books, to be used in the schools of the section.

## SCHOOL DISTRICTS.

7. The words "School District" shall mean any tract of land declared by the Lieutenant-Governor, as hereinafter provided, to be such school district, and the inhabitants thereof shall be a body corporate and politic for the purposes and with the powers and liabilities hereinafter specified.

8. Every school district shall be known under the corporate name of

*repealed  
by Act No. 16  
of 1885*

the "School District of \_\_\_\_\_" (here insert the name chosen by the people of district) "Protestant" (or "Catholic") "public" (or "separate") "school district No. \_\_\_\_\_" (given by Lieutenant-Governor or Lieutenant-Governor in Council) "of the North-West Territories."

9. A Protestant or Catholic, public or separate school district, shall at its erection comprise an area of not more than thirty-six square miles, its extreme limits being not more than nine miles apart and shall contain not less than four resident heads of families with a population of children of school age, that is to say, between the ages of five and sixteen, of not less than ten.

*repealed by Act No. 16 of 1885*

10. "Elector" shall mean any man or unmarried woman of the full age of twenty-one years, not an alien or unenfranchised Indian, who has within the limits of any proposed or existing school district, possession, in his, or in right of his wife, or her own right, of any land of the value of one hundred dollars, or who is an occupant and cultivator of unpatented Dominion Lands of the value of one hundred dollars, whether as a homesteader or otherwise, and any person who has as a joint tenant or tenant in common, an unexpired lease for the term of one year of any certain parcel of land, of which the yearly rental is at least twenty dollars.

#### FORMATION OF SCHOOL DISTRICTS.

11. Any three resident electors of any locality fulfilling the requirements of section ten of this Ordinance may be formed, or may form themselves into a committee to procure its erection into a school district and may petition the Lieutenant-Governor for such erection.

12. The petition shall set forth:

- (1) The proposed name in full, limits, definite location and approximate area of the proposed district;
- (2) The approximate value of the taxable property within the proposed limits;
- (3) The distance from, and the location of the nearest school district;
- (4) The name and address of a resident elector who shall act as returning officer;
- (5) Approximately the total population, the adult population and the population of children of school age as defined in section nine of this Ordinance resident within the proposed district;
- (6) By an accompanying sketch, plan or map of the proposed dis-

trict, its boundaries, principal legal sub-divisions, principal physical features and general location;

- (7) The date upon and place at which a meeting of the school electors of the proposed district will be held to decide whether the majority is in favor of the locality being erected into a school district or not and elect trustees.

13. The petition must be accompanied by an affidavit of the several members of the committee, made before a justice of the peace, or a notary public, resident within the limits of the proposed district or as near thereto as may be, that the members of the committee are *bona fide* resident electors of the proposed school district, and that the statements made in the petition are correct.

14. At least twenty-one days before the day mentioned in the petition to the Lieutenant-Governor as the one upon which the before mentioned meeting is to be held, the committee shall cause to be posted up in at least five conspicuous and widely separated places within the district, copies of the following notice:

NOTICE.

"All parties are hereby notified that the undersigned committee have petitioned the Lieutenant-Governor for the erection of (*give name in full*) school district within the following limits, that is to say (*define limits*) and hereby call a meeting of the school electors within these limits to decide whether such petition shall be granted or not, to be held on the day of ..... at ..... from 12 o'clock noon till 4 p. m. and to elect three school trustees. The qualification of voters is expressed in the following oath which persons desiring to vote must take, if required:—"You do solemnly swear that your name is (*mention name given by the proposed voter*); that you are the owner (tenant or occupant) of (*describe the land voted upon*); that it is of the value of one hundred dollars (or, if a tenant, of the yearly value of twenty dollars); that it is situated within the limits of the proposed school district, that you are of the full age of twenty-one years; that you are not an alien or unfranchised Indian; that you have not received any corrupt reward and have no hope or expectation of receiving any such reward for voting at this time and place"

(Signed)

(Name of member of committee who is to act as returning officer.)

Returning Officer.

(Name of second member of committee)

(Name of third member of committee)

School Committee.

- (1) Such notice may be either printed or written.

15. The Lieutenant-Governor shall acknowledge the receipt of the petition for the proposed school district, to the returning officer named in sub-section 4 of section 12, and state whether he approves of the erection of the same, or not.

16. The returning officer shall preside over the proceedings of the meeting mentioned in sub-section 7 of section 12, and the electors present at such meeting shall appoint a secretary who shall record the proceedings of the meeting and perform all other such duties as may be required of him by this ordinance.

17. The returning officer shall decide all questions of order, subject to

an appeal to the meeting; and in case of an equality of votes, he shall give the casting vote, but he shall have no vote except as chairman.

18. The chairman of the meeting shall take the votes in the manner desired by a majority of the electors present; but he shall, at the request of any two electors, grant a poll for recording by the secretary the names of the voters present; such poll shall close at 4 o'clock p. m.

19. If required by any person present, or of his own accord, if deemed advisable the chairman of the meeting shall administer the oath prescribed in section 14 of this ordinance.

20. If it is desired in the case of any person voting under this ordinance to appeal against the decision of the returning officer or chairman of such school district meeting, such appeal must be notified to the chairman of the meeting within three days of the meeting and must be made under oath within three days before a Justice of the Peace, and the appellant shall forward it to the Stipendiary Magistrate of the judicial district within which the school district affected is situated together with the sum of twenty-five dollars, and the stipendiary magistrate shall thereupon investigate such appeal and shall confirm the election or vote, or set it aside with costs or otherwise and appoint the time and place of holding a new meeting if necessary.

21. If the majority of votes taken at this meeting is against the erection of a school district, the chairman shall notify the Lieutenant-Governor.

#### FIRST ELECTION OF TRUSTEES.

22. So soon as the majority of the electors at this first school meeting have decided in favor of the erection of the school district the electors present shall, by a majority of votes, elect from the resident electors in the school district, three trustees.

*repealed* 23. The qualification of persons who may be elected as trustees, shall be the same as required in the case of voters, with the addition that the candidate must be possessed of real or personal property to the amount of five hundred dollars, and in case other than the first election, has no contract either direct or indirect, with the school district.

24. Every elector shall be entitled to cast as many votes as there are trustees to be elected, but in no case shall any one elector cast more than one vote for any one candidate at the same election.

*repealed* 25. Within seven but not before the expiration of three days after the date of their elections, the chairman of the meeting and the trustees elect shall appear before a justice of the peace and the chairman shall make an affidavit before such justice that the trustees elect were elected by a majority of the electors at the school district meeting mentioned in section 22.

- (1) Each trustee elect shall take the following oath of office before a Justice of the peace.

I, A. B., do solemnly swear that I will to the best of my ability honestly and faithfully discharge the duties devolving upon me as Trustee of (*name of school district in full*) School District No. during the term for which I have been elected in accordance with the Ordinance of the North-West Territories. So help me God.

- (2) The justice of the peace shall grant to each trustee, after he has taken the foregoing oath, a certificate of election in the following form:—

I, A. B., one of Her Majesty's Justices of the Peace in and for the North-West Territories, hereby declare that (*give name, residence and occupation of person mentioned*) elected school trustee for (*give name of school district*) to hold office until the thirty-first day of October, 18 has this day taken before me the oath of office prescribed in sub-section one of section 25 of the Ordinance respecting schools of the North-West Territories.

Dated

(Signed)

A. B.

Justice of the Peace.

- (3) If through any unavoidable cause, a trustee elect does not take his oath of office, as herein provided, the chairman of the meeting shall appoint another day, notifying him of the same, for taking such oath, and shall report the circumstance to the Board of Education.

26. A copy of each certificate so granted shall be forwarded by the returning officer to the Board of Education.

27. The trustees elected at a first school district meeting shall continue in office until the thirty-first day of October next ensuing the one following their election.

#### PROCLAMATION.

28. On receiving the report of a first school meeting, the Lieutenant-Governor shall, if the majority of the votes at the school district meeting has been in favor of the erection of the school district, forthwith proclaim the district a school district in accordance with the terms of the petition addressed to him in that behalf with such number as he may see fit, and in manner as hereinafter provided.

29. The proclamation of the Lieutenant-Governor erecting any district into a school district shall set forth:

- (1) The name in full, number, situation and limits thereof:
- (2) The date and place at which the meeting of electors and the election of trustees was held;
- (3) The names of the elected trustees.

30. If two or more petitions for the erection of school districts, the pro-

repeated in 1886  
 amended repeated  
 1886

posed boundaries of which overlap, are received before any of the districts are erected by proclamation as herebefore provided, the Lieutenant-Governor shall, on receiving the returns of the voting in favor of their erection, before issuing the proclamation defining the boundaries, correspond with the Inspector of schools for the district or districts, and require him to report upon the matter. The Lieutenant-Governor shall then alter the proposed boundary lines in such manner as shall appear to be an equal division of the territory in dispute between the said districts and shall so declare and fix the boundaries in his proclamation: provided always that, in case of such alteration of boundaries, if any district be reduced below the standard provided in section nine of this Ordinance, then such district shall not be so erected into a school district on the petition sent in.

## SEPARATE SCHOOLS.

*amended*  
31. In accordance with the provisions of "The North-West Territories Act, 1880," providing for the establishment of separate schools, it shall be lawful for any number of property holders resident within the limits of any public school district or within two or more adjoining public school districts, or some of whom are within the limits of an organized school district and others on adjacent land not included within such limits, to be erected into a Separate School District by proclamation of the Lieutenant-Governor with the same rights, powers, privileges, liabilities and method of government throughout as hereinbefore provided in the case of public school districts.

32. Such separate school district shall be erected on petition of all those desiring to have their land set aside as a separate school district,

33. The petition for the erection of a separate school district shall state in addition to the particulars mentioned in sub-sections 1 and 6 of section twelve of this Ordinance:—

(1.) The description of the land held by each petitioner, its area, assessed value or probable assessable value, if outside the limits of a municipality, its situation in regard to present organized school districts, as well as Dominion lands surveys and natural boundaries;

(2.) The number of children of school age resident within and adjacent to the proposed district, of the religious faith of the petitioners, who would probably attend such school.

34. Each such petition shall be accompanied by an affidavit of some person competent to verify the signatures and facts therein set forth.

35. Upon the receipt of such petition, the Lieutenant-Governor shall if there be no impediment requiring the consideration of the Lieutenant-



*amended*  
Governor-in-Council, issue a proclamation erecting such separate school district and order the first election of Trustees, fixing the date thereof, and appoint a returning officer who shall conduct the election as is provided in sections 16, 17, 18, 19, 20, 22, 23, 24, 25 and 26, and the trustees elected shall proceed as provided in section 25.

36. The Lieutenant-Governor shall at the same time notify, in writing, the Board of Trustees of any public school district that may include the whole or any part of such separate school district within its limits, of the fact of the erection of such separate school district and of the lands of such separate school district having been withdrawn from such public school district.

37. Any land and personal property therein set apart as a separate school district, shall be assessable by the public school district, within whose organized limits it is situated, for the purpose of paying off any debenture indebtedness that may have been incurred, during the time that such land was included as a part of such public school district in the same manner and time and at the same rates as the remaining portion of such public school district may be assessed to pay off such indebtedness, but for no other purpose whatever.

#### DIVISIONS AND ADDITIONS TO SCHOOL DISTRICTS.

38. Any public school district may be divided into two or more parts by proclamation of the Lieutenant-Governor, on recommendation of the Board of Trustees of the district, after he shall have been satisfied that a vote has been taken on the question in the manner provided in the case of a school district, authorizing the issuing of debentures, and that the majority of duly qualified votes cast have been in favor of such division being made.

39. Any two or more public or separate school districts may be united in one public or separate school district by proclamation of the Lieutenant-Governor in the same manner as that provided for the division of public school districts, and all the real and personal property held by all the districts shall thereby become the property of the united district.

40. The owner of any land situated outside the limits of any school district or included in any school district, may have it included in an adjoining or adjacent school district, whether public or separate (but of the faith, either Protestant or Roman Catholic, to which the petitioner belongs) on petitioning the trustees of such district to that effect; and such petition shall be accompanied by the affidavit of the petitioner that he is the owner of such land.

41. The trustees, on receiving a petition to the effect and in the form and substance mentioned in the next preceding section of this Ordinance, may annex the land of the petitioner to the district of which they

*amended  
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are trustees, and shall notify the Lieutenant-Governor that such land has been annexed to their school district, and shall announce the additions or changes that have been made, stating in particular the ownership and assessed value of the property affected, by notice published in five public and widely separated places in the school district or districts affected, and they shall also notify in writing the petitioner and the board or boards of trustees of the district or districts that have been affected by the changes that have been made.

42. Parties petitioning for the organization of separate school districts or for any addition or change in the area or limits of any school district or districts, as hereinbefore provided, shall accompany such petition with such sum of money as may be deemed sufficient by the Lieutenant-Governor to pay the necessary expenses connected with the changes petitioned for before they can require their petition to be considered.

#### ANNUAL ELECTION OF TRUSTEES.

43. A meeting of the ratepayers of the school district shall be called by the secretary of the school district by notices posted in five conspicuous and widely separated places on the second Monday of October, unless the same be a statutory holiday, and then on the ensuing day, for the purpose of nominating the trustees to serve as such for the year commencing the first day of November following.

44. A majority of the ratepayers present shall elect a chairman, and the proceedings shall be carried on as provided in sections 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26, except as to the election of a secretary; the secretary of the school district shall act as the secretary of this meeting. The newly elected trustees shall proceed as is provided in section 25.

45. The first meeting of the newly elected trustees shall be held on the third Monday in November in each year, unless the same be a statutory holiday, when it shall be held on the day next ensuing and the trustees of the previous year shall be deemed to hold office up to the first meeting of the new trustees, notwithstanding that the school year shall expire on the 31st of October in each year.

46. A correct copy of the proceedings of the first, and of every annual (and of every special school district meeting, signed by the chairman and secretary, shall be forthwith transmitted by the chairman of such meeting to the district Inspector of School, who shall report upon the same to the President of the Board of Education.

47. At the annual meeting for the election of School Trustees, the ratepayers then present shall elect an auditor who shall audit the accounts of the District and report the result thereof to the annual meeting of ratepayers.

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repealed  
amended  
repealed

## BOARD OF SCHOOL TRUSTEES.

48. The ratepayers of every school district that may be established under this Ordinance, and their successors, shall be a body corporate and politic under the name and number mentioned in the proclamation of its erection. It shall be represented by a board of three trustees elected as herein provided, and bearing the names of the trustees of the (Protestant or Catholic) public or separate school district of (here insert the name and number.) Such trustees on behalf of the corporation, shall have power to:—

- (1) Acquire real or personal property by purchase, donation, devise, or otherwise, and hold and enjoy, or alienate the same, for school purposes;
- (2) Enter into contracts, transact business, bind and oblige themselves and others within the limit of their functions;
- (3) Sue and be sued in any cause or before any court of justice;
- (4) Levy such taxation on the real and personal property within the district, in the manner hereinafter provided, as may be necessary for the discharge of the obligations entered into by the corporation of said school district for school purposes.

49. It shall be the duty of the new trustees at their first meeting to proceed to the election of a chairman, which shall be done by those present; the secretary of such school district shall preside at such meeting until a chairman is elected.

50. The elected chairman shall appoint one of the remaining trustees to act at any time when the chairman fails to attend to his duties as such.

51. In case the acting chairman fails to act, then the remaining trustee shall be acting chairman until the acting chairman resumes his duties.

52. A majority of the board of trustees shall constitute a quorum at all meetings; provided that in case the number of trustees is reduced to one, that one shall be held to be a quorum until other members are elected.

53. The chairman shall:—

- (1) Call all meetings of the board and public school meetings and preside at such meetings;
- (2) Have general supervision of the affairs of the district;
- (3) Certify all accounts against the district before such accounts be paid by the treasurer.

- (4) Act as returning officer, or appoint some other person to act as such, at all elections that may be held or votes that may be taken during the period of his chairmanship.

*amended  
see 10 of 86*

54. The board of trustees at its first meeting in each year shall appoint a secretary, whose duty it shall be to:—

- (1) Keep a minute of all the meetings of the board;
- (2) Answer all communications on school matters in such manner as he may be directed by the board;
- (3) Examine the records and registers of the school kept by the teacher and see that they are correct;
- (4) Forward to the Lieutenant-Governor, from time to time, the reports, provided for in this Ordinance, and give such other information in regard to the school district as may be desired from time to time by the Lieutenant-Governor, the board of trustees, or school inspector;
- (5) Have charge of and keep on record all the books, papers, accounts, assessment rolls and other matters, committed to his charge by the board of trustees during his term of office, and deliver the same to the chairman of the board on ceasing to hold office.

55. Should the secretary at any time be unable to attend to his duties the chairman shall appoint some member of the board to act as secretary until the secretary resumes his duties or until the board sees fit to appoint another secretary.

*amended  
see 10 of 86*

56. By motion of the board one of the members thereof may, with his consent, be appointed treasurer of the district for the whole or any part of the term for which he was elected to serve, but such treasurer shall receive no remuneration for his services, and the members of the board shall individually and collectively be held responsible, by virtue of their office, for the safe keeping of all sums of money placed in such treasurer's hands.

57. Should it be found inexpedient to appoint a member of the board as treasurer, then the board shall appoint a responsible resident of the district to be treasurer or secretary-treasurer, during the pleasure of the board, at such rate of remuneration as may be agreed upon. Every treasurer shall, before entering upon his duties as such, give security to the school trustees by a bond signed and acknowledged before a magistrate, and such security shall be given by at least two solvent sureties jointly and severally to the satisfaction of the Board of Trustees and to the amount of any moneys for which the treasurer may at times be re-

responsible, whether arising from the school fund or from any particular contribution or donation paid into his hands for the support or benefit of the school, and such security shall be renewed at the beginning of each year, or renewed at other times or changed whenever renewal or change is required by the Board of Trustees.

58. It shall be the duty of the treasurer to collect, receive and account for all school moneys, whether derived from the Government or otherwise, for the purpose of education within the district of which he is treasurer, and to distribute such moneys in the manner directed by the Board of Trustees, and he shall give and take receipts for all moneys so received and paid out by him, which he shall, when called upon, produce before the Board of School Trustees as also all moneys or accounts in his charge, and shall hand over the same to the Board of Trustees on his ceasing to hold office.

59. Should the treasurer be at any time unable to attend to his duties the secretary, if the treasurer be a member of the board, shall attend to such duties in his place, but if the treasurer should not be a member of the board, then the board shall appoint some person to attend to his duties under the necessary bonds, and in the meantime the Board of Trustees shall be held to be the treasurer of the district.

60. The secretary of every Board of Trustees shall forward to the Lieutenant-Governor on the 30th day of May in each year a report showing the certificate of the teachers employed, the number of teachers employed and the total number of children attending the school, and stating whether the school is opened for one or both of the school terms.

61. It shall be of the duties and within the powers of any Board of Trustees of any school district to:

(1) Engage a qualified school teacher or teachers on such terms as the board may deem expedient;

(2) Procure a suitable building or buildings by purchase, lease or otherwise, for use as a school room, in a central location and of as satisfactory a character as possible with a play-ground attached;

(3) Make such assessments on real and personal property of the district and levy such taxes as may be necessary to defray the expenses authorized to be incurred in the preceding sub-sections, and all necessary expenses incurred in the election of trustees, keeping the accounts or transacting the business of the district, and in furnishing the school-room with school material, furniture and firing;

(4) Inspect the school, see that good order is kept and proper instruction is given and dismiss the teacher or any of the pupils for

*Amended*

misconduct or immorality, or the teacher for incapacity ;

(5) See that true accounts both of the school and district are kept, and that the affairs of the district generally are conducted in the manner provided in this Ordinance and with a due regard to efficiency and economy ;

(6) Select all the books, maps and globes to be used in the schools under their control from the list of those authorized by the Board of Education;

(7) Provide, free of cost, out of the funds of the district, books and slates for the use of the children resident within the district and attending school, whose parents are unable, through poverty, to procure the necessary books and slates for them, the right to such books and slates to rest in the school district ;

(8) Provide, when deemed expedient, a suitable library for the school district, free of charge, making such regulations as to lending and the prevention of loss or damage to the books of such library, as they may think fit ;

62. A trustee may resign at any time by notifying the chairman of the board, or if he be the only remaining member of the board, the Lieutenant-Governor to that effect, in writing.

63. Any trustee who shall :—

(1) Be absent from the district more than three months at a time ;

(2) Fail to attend three consecutive meetings of the board, the same having been duly called by written notice left at his house or place of business ;

(3) Have become insolvent or convicted of any felony, may be declared disqualified on motion of the board and his seat as trustee declared vacant and an election to fill the vacancy shall be held as hereinbefore provided.

64. If the Lieutenant-Governor shall at any time receive the resignation of the sole remaining member of a board of trustees of any school district, or a certificate of a justice of the peace or of the school Inspector for the school district mentioned, that the board of trustees has ceased to exist, he shall order an election of trustees, fixing the date thereof and appointing a returning officer, who shall conduct the election as is provided in sections 16, 17, 18, 19, 20, 22, 23, 24, 25 and 26 ; and the trustees elected shall proceed as provided in section 25, or shall hold the matter over for the consideration of the Board of Education,

*Amended 9.10.86*

65. Elections shall be held to fill vacancies that may occur in the board of trustees from time to time, from death, resignation or disqualification, and such elections shall take place within one month from the time of the occurrence of such vacancy.

66. The person thereupon elected to fill the vacancy so created, shall hold his seat for the residue of the term for which his predecessor was elected, or for which the office is to be filled.

67. The new election shall be conducted in the same manner as is provided in sections 16, 17, 18, 19, 20, 22, 23, 24, 25 and 26.

#### SELECTING SCHOOL SITES.

68. No steps shall be taken by the trustees of any school district, for procuring a school site on which to erect a school house without calling a special meeting of the resident electors or ratepayers, as the case may be, of that school district by notices published in five conspicuous and widely separated places within the district, at least ten days before the date of the meeting, to consider the matter, and no change in the site of a school house shall be made without the consent of the majority of such special meeting.

#### TEACHER.

69. As soon as possible after the first election of trustees in any school district, and at such other times as may be expedient, the trustees shall engage a qualified person as school teacher for such term, not being more than one year, and at such salary as may be agreed upon.

70. It shall be the duty of the teachers to:—

- (1) Preside over and maintain good order in the school;
- (2) Teach from such and only such books as may be ordered or permitted by the trustees, as provided in this Ordinance;
- (3) Hold a public examination of the classes in the school at least once in each term;
- (4) Admit trustees, school inspectors, parents of children attending, or ratepayers of the district to the school room at any time;
- (5) Report to the trustees, from time to time, on the necessities of the school and the behaviour of the children attending it;
- (6) Punish children for misbehaviour, inattendance or disobedience, in such manner as the trustees may permit or direct;
- (7) Keep a true register of the school, according to the forms supplied by the Board of Education;

- (8) To keep the school registers with care and to call the roll and mark the attendance and absence of the pupils previously to beginning the regular school work each morning and afternoon;
- (9) To keep a time table showing the classification of the pupils, the subjects taught in each class, the hour of the day, and the day of the week, when each subject is taught and the intervals allowed for recess during school hours;
- (10) To keep a "Visitor's Book" provided by the Board of Education and to enter therein the visits made to the school, and to allow any visitor who so chooses to make therein any remarks suggested by the visit;
- (11) To see that the school room is kept clean and well ventilated and to observe that the closets belonging to the premises are kept in a cleanly condition;
- (12) To report to the secretary of the school district any needful repairs to the school building or furniture;
- (13) To keep an inventory of the school materials and furniture and to report any deficiency in the stock from time to time;
- (14) To observe that there is no scarcity of fuel for school purposes during the winter months, and to exercise due economy in the use of the same;
- (15) To render assistance to the secretary of the school district in making the required reports and returns to the Lieutenant-Governor or the Board of Education or the Inspector of schools;
- (16) To have the custody of the school premises and to deliver up the key when required to do so by the school trustees;
- (17) To report to the secretary of the school district immediately it comes to his knowledge the presence of any infectious or contagious disease amongst the pupils and to faithfully carry out the wishes of the trustees in respect to it.

71. If a teacher be engaged for a less term than three months, or if the provisions of this Ordinance are not complied with by any school district, then the district employing such teacher, or otherwise not complying with the terms of this Ordinance, may be deprived of their right to receive aid as provided in this Ordinance.

#### CONDUCT OF SCHOOL.

72. School *annulled* shall be held between nine o'clock and twelve o'clock in



{ the forenoon, and half past one o'clock and four o'clock in the afternoon of every day not including Saturdays, Sundays and statutory holidays, but the school trustees may shorten the school hours in the winter time.

73. The school year shall be divided into two terms, a winter term and a summer term :

(1) The Winter Term shall begin on the first day of November and end on the thirty-first day of March in each year.

(2) The Summer Term shall begin on the first day of April and end on the thirty-first day of October in each year :

74. A recess of fifteen minutes in the forenoon and in the afternoon may be allowed the children attending school, at the pleasure of the Board of Trustees.

75. There shall be two weeks holiday, during the Summer Term, in either the month of August or the month of September, at the discretion of the trustees. *repealed see 10 of 86*

76. There shall be two weeks holidays during the Winter Term, viz., the two weeks following the twenty-third day of December in each year.

77. It shall be at the discretion of the trustees to permit any other holidays. *am. so that see 10 of 86*

78. No religious instruction, such as Bible reading, or reciting, or reading or reciting prayers, or asking questions or giving answers from any catechism, shall be permitted in any public school in the North-West Territories from the opening of such school at nine o'clock in the forenoon, until the hour of three o'clock in the afternoon, after which time any such instruction, permitted or desired by the trustees of the district, may be given.

79. Any child attending any school whose parent or parents or guardian is or are of the religious faith different from that expressed in the name of such school district, shall have the privilege of leaving the school room at the hour of three o'clock in the afternoon, or of remaining without taking part in any religious instruction that may be given, if the parents or guardian so desire.

80. It shall be unlawful for any teacher or school trustee to, in any way, attempt to deprive such child of any advantage that it might derive from the ordinary education given in such school, and such action on the part of any school trustee, inspector or teacher, shall be held to be a disqualification for and voidance of the office held by him or her.

81. No fee shall be charged by any school district on account of the attendance of any children, whose parents or guardians are ratepayers of such district, at the school thereof; but a rate not exceeding five cents per day, payable in advance, may be charged for any children resident outside the limits of such district, whose parents or guardians are not ratepayers of such district.

INSPECTOR OF SCHOOLS.

82. It shall be the duty of the inspector to—

- (1) Visit at least once a year, the schools under his charge and examine the pupils in the different classes as to proficiency in their studies;
- (2) At the desire of the trustees of any district, examine a teacher possessing no certificate and employed or proposed to be employed by such trustee as to his proficiency in the subjects he is expected to teach and as to his methods of teaching;
- (3) Report from time to time to the Board of Education as to the efficiency, methods and usefulness of the schools under his charge and also when deemed advisable to the trustees of the different districts;
- (4) To inspect another school district at the pleasure of the Board of Education;
- (5) To observe that no books are used in any school but those selected from the list of books recommended by the Board of Education;
- (6) To assist at the Examination of teachers if requested by the Board of Education;
- (7) To make a full report of his inspection of every school to the Board of Education not later than the month of September in each year, and to particularize in each report, name of school, name of teacher, his certificate, the grant he is entitled to, number of school children on the register, number present on day of inspection, remarks on proficiency of pupils, special remarks, if any, state of school buildings and premises, state of school apparatus, general tone of school;
- (8) Keep a diary of his inspection tour and expenses;
- (9) Inspect and endorse, if practicable, all reports which are sent through him to the Board of Education;

- (10) Grant provisional certificates to competent applicants recommended by trustees of school districts and require such applications to be in the teacher's own hand-writing;
- (11) Upon a visit to a school to inspect the school register and to write his name and the date of his visit upon the line immediately under the last name on the roll;
- (12) To observe if the school register is systematically kept;
- (13) To inspect the school buildings and premises and to suggest to the trustees any alterations he may deem necessary for the comfort, accommodation and health of the scholars;
- (14) To inspect the school time table and to endorse his approval upon it if satisfactory;
- (15) To make the time table the basis of his examination of the classes;
- (16) To inspect the visitors' book and to write therein a general report of the condition in which he found the school and its teacher;
- (17) If the teacher holds a provisional certificate, to endorse it in his favor or otherwise;

83. The secretary of every school district shall within one month of the date of the opening of such school, notify the inspector of such district of the opening of such school, and the qualification of the teacher employed; enclosing the teacher's certificate or a certified copy of the same in a registered letter addressed to the inspector of schools for such district.

84. On receipt of such notification the inspector of schools shall, if he deem the report satisfactory endorse the same and forward it to the Board of Education.

#### AID TO SCHOOLS.

85. Every school district organized under this ordinance shall receive aid from the school fund, as follows:

- (1) Grants on account of Teachers' certificates:

- (a) An annual grant of \$250 to every school employing a teacher, male or female, holding a provisional certificate from the Inspector of schools for that district or a third class certificate from a Normal School or the Board of Education;

(b) An annual grant of \$300 to every school district employing a teacher, male or female, holding a second class certificate from a Normal School or from the Board of Education ;

(c) An annual grant of \$350 to every school district employing a teacher, male or female, holding a first class certificate from a Normal School or from the Board of Education ;

(2) Grants on account of attendance :

*Capitation*  
*see in 1886*  
(a) An annual grant of \$2.00 per child, per annum, to every school whose average attendance is at least eight, for every child who has attended school one hundred school days, where the school is only open during one term ;

(b) An annual grant of \$2.50 per child per annum, to every school whose average attendance is at least eight, for every child who has attended school one hundred and sixty school days, where the school is open during both the Winter and Summer terms ;

(3). Grant on account of Inspector's report of school :

(a.) An annual grant of an amount not exceeding the total amount of the capitation grant for the attendance of children to every school district of whose school the Inspector of schools shall report favorably ;

(4.) Grants on account of additional teachers ;

(a.) To every school district where the average daily attendance exceeds forty, a sum of one hundred and fifty dollars for an assistant teacher ;

(b.) To every school district where more than one assistant teacher is employed, a grant of one hundred dollars for every assistant teacher employed after the first, where the average daily attendance shall be at least twenty for each teacher, the principal teacher included ;

(5.) Grants to advanced classes :

(a.) To every school district employing a teacher holding a first class certificate, a grant will be given to one group of pupils examined in the same subjects not being more than two subjects, at the rate of \$1 per child, per subject. The examination to be in writing and conducted in the inspector's presence ; the examination papers to be provided by the Board of Education.

86. The Lieutenant-Governor shall pay the grant on account of teacher's certificate to the treasurer of the district, quarterly immediately after the Thirty-first March, Thirtieth June, Thirtieth September and Thirty-first December in each year; and the grants on account of attendance and Inspectors' reports shall be paid to the treasurer of the school district, annually, as soon as practicable after the Thirty-first of October in each year.

87. When the school is only open for one term, the school districts is entitled to a proportion of the grant for the teachers' certificates, calculated according to the months during which the school was open.

#### ASSESSMENT.

88. Where a school district is situated within a Municipality, the trustees shall, as soon as may be after the final revision of the assessment roll of the Municipality make a demand on the Council of such Municipality for the sum required for school purposes for the then current year; but such sum shall not exceed an amount equal to ten mills on the dollar, according to the last revised assessment roll, on the property liable to assessment in such school district for ordinary school purposes, with such additional amount as may be necessary to meet any debenture indebtedness that may have been incurred and becoming due.

89. When property owned by a Protestant is occupied by a Roman Catholic and *vice versa*, the tenant in such cases shall only be assessed for the amount of property he owns, whether real or personal, but the school taxes on such rental or leased property shall in all cases, whether or not the same has been or is stipulated in any deed contract or lease whatever, be paid to the trustees of the district of the religious faith to which belongs the owner of the property so leased or rented and to no other.

90. Whatever property is held jointly, as tenants, or tenants in common, by two or more persons, the holders of such property being Protestants and Roman Catholics, they shall be deemed and held accountable to the Board or Boards of Trustees for an amount of taxes in proportion to their interest in the premises, tenancy or partnership, respectively, and such taxes shall be paid to the school of the denomination to which they respectively belong.

91. If a school district be situated partly within two or more Municipal Corporations, then the Board of Trustees shall make a demand upon each of such corporations, for that proportion of the amount of money required by such school district, which may justly be demanded by such school district, according to the amount of property included within the limits of the district and situated within the limits of such Municipality.

- (1.) In case there is a difficulty in arriving at a proper assessment of the different portions of the school district, the trustees may levy an assessment as provided in the subsequent sections of this Ordinance;

92. If a school district or any portion thereof be not situated within the limits of any Municipal Corporation, then the trustees of such district shall themselves or by means of an assessor, make an assessment of the real and personal property within the district or within the portions of such districts and inscribe the same upon an assessment roll in the form as hereinafter provided.

93. The trustees of any school district, or an assessor whom they shall appoint, as soon as may be in each year, shall prepare an assessment roll for the district, in which shall be set down according to the best information to be had, a list of all the taxable property in the district, with the names of the occupants and owners, if such can be procured, and such list shall contain in one line, but in different columns, the following information:

- (1.) Name of occupant or person in possession, (*If there be no occupant, a statement to that effect*);

(a) Religion of occupant;

(b) Sex;

(c) Age;

(d) Occupation;

(e) Place of residence;

- (2.) Name of owner, if it can be ascertained, (*If owner's name be unknown, such particulars concerning ownership of property as may be known*);

(a) Religion of owner;

(b) Sex;

(c) Age;

(d) Occupation;

(e) Place of residence;

- (3.) Description of real property in occupation of each person:

- (a) Part and number of section, township, range, and meridian, or number and description of lot in special survey or number of lot, house or other particulars of each parcel;
  - (b) Improvements in cultivated land (*giving area*), and buildings (*giving size*), on each parcel;
  - (c) Area in acres or feet of each parcel;
  - (d) Value of each parcel;
  - (e) Total value of real property;
- (4.) Description of taxable personal property:
- (a) Taxable personal property, other than income, with particulars;
  - (b) Value of such personal property;
  - (c) Taxable income;
  - (d) Total value of personal property, including taxable income;
- (5) Total value of taxable real, and personal property.

94. "Land," "real property" and "real estate" respectively shall include all buildings or other things erected upon or affixed to the land and all machinery or other things so fixed to any building as to form, in law, part of the reality, and all trees or underwood growing upon the land, and all mines, minerals, quarries, fossils in and under the same, except mines belonging to Her Majesty.

- (2) "Personal estate" and "personal property" shall include all goods, chattels, shares in incorporated companies, interest on mortgages, dividends from bank stock, money, notes, accounts and debts, at their actual value, income and all other property, except land and real estate and real property, as above defined, and except property herein expressly exempted;
- (3) "Property" shall include both real and personal property, as above defined;
- (4) "Ranche" shall mean land held under a grazing lease from the Dominion Government.

95. All real and personal property situated within the limits of any school district, or income derived by any person resident within the limits of such district, in the North-West Territories, and wherever any

portion of a ranche and the headquarters of such ranche are within the limits of any school district, the whole of the personal property belonging to the lessee of such ranche, on the same, shall be liable to taxation subject to the following exemptions:—

- (1) All property held by Her Majesty or specially exempted by the Parliament of Canada or for the public use of the Government of the Territories;
- (2) All property held by or in trust for the use of any tribe of Indians or the property of the Indian Department;
- (3) Where any property mentioned in the preceding clauses is occupied by any person otherwise than in an official capacity the occupant shall be assessed in respect thereof, but the property itself shall not be liable;
- (4) The grounds and buildings of all public schools, universities, collegiate institutes or incorporated seminaries, being public property, so long as such property is actually used or held for educational purposes,
- (5) All property belonging to the Municipality when held and occupied or in the use of the corporation and the personal property belonging to the same ;
- (6) Jails and court houses and the necessary land attached thereto
- (7) Churches and the land on which they stand, not exceeding one half acre, in towns and cities, together with the buildings thereon used for the purposes of the said church or occupied by the incumbent or priest, and, in rural Municipalities one hundred and sixty acres of land in addition to the above, if the same is actually used for the support and maintenance of any church or mission, orphanages, poor-houses, houses of industry, asylums, being public institutions, and the real and personal property connected with the same ;
- (8) The property of every public library ;
- (9) The income of a farmer derived from his farm and the income of merchants, mechanics and other persons derived from capital liable to taxation ;
- (10) So much of the personal property of any person as is invested in the debentures or bonds of any Municipality within the Territories ;
- (11) Personal property to the extent of three hundred dollars ;



(12) Grain *in transitu*, household effects of every kind, books and wearing apparel ;

(13) The increase in the value of the land by reason of the cultivation thereof together with the growing crops ;

96. A person occupying property or deriving income not liable to taxation, may compel the assessor, on written demand, to assess him for such property or income in order that he may thereby be qualified for voting or holding office.

97. Land and personal property shall be assessed against the person in occupation or possession thereof, unless when in the case of a non-resident owner, such owner shall in writing require the assessor to assess him alone for such property. But the person assessed shall in all cases, unless there is a stated agreement to the contrary, have summary recourse against such owner for the amount of taxes paid ;

(1) Provided always that, if the occupants be of the religious faith different from that expressed in the name of the school district being either Protestant or Roman Catholic, he, upon giving the assessor notice in writing to the effect that he desires to pay his school taxes to any certain district of the faith, either Protestant or Catholic, to which he claims to belong, and by truly informing the assessor as to who is the owner, and where he may be found, he shall only be assessed for that part of the property, either real or personal, of which he is owner.

98. No ratepayer shall be entered for assessment more than once on the assessment roll, and the taxes may be recovered either from the owner or occupant.

99. Where more persons than one are joint tenants or tenants in common, or holders of any property, they, or any number of them, shall be assessed for the whole of such property, subject always to the provisions of section 90 of this Ordinance, and such assessment may be levied upon any one or more of them, saving always the recourse of such persons against the remaining holders, tenants or owners.

100. Real and personal property shall be estimated at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor.

101. Land held in actual use and not for purposes of sale, shall be appraised at the value which it is reasonably worth for the purposes for which it is in use.

102. In assessing vacant ground or ground used as a farm-garden or nursery and not in immediate demand for building purposes in cities or

towns, the value of such vacant ground shall be that at which sales of it can be freely made, and where no sales of it can be reasonably expected during the current year, the assessor shall value it as if held for farming or gardening purposes, with such percentage added as the situation of the land may reasonably call for, and such vacant land, whether surveyed into lots or not, if unsold and such, may be entered on the assessment roll as so much of the original lots or sections as the case may be, and where ground is not held for purposes of sale, but *bona fide*, inclosed and used in connection with a residence or building, as a paddock, garden, park or lawn, it shall be assessed at a valuation which at six per centum would yield a sum equal to the annual rental which in the judgment of the assessor it is reasonably worth, reference being always had to its position and local advantages.

103. Any person may be required by the assessor to deliver to him a written statement of all property for which he is liable to be assessed, with such other information as to owner, occupant, location and value, or other necessary particulars as may be demanded, and if he fails to do so or knowingly makes any false statements, such person shall, upon complaint of the assessor and upon conviction before a justice of the peace having jurisdiction within the district, forfeit and pay a fine of twenty dollars, to be recovered in like manner as other penalties upon summary conviction before a justice of the peace.

104. The assessment roll shall be completed as soon after the first of February in each year as shall be deemed expedient by the trustees, and the assessor shall, before handing the roll over to the secretary of the Board of Trustees, make affidavit (which shall be inscribed upon the roll) before a justice of the peace, that the statements contained therein are correct to the best of his knowledge and belief, after making due enquiry in each case.

#### COURT OF REVISION.

105. On receipt of the assessment roll by the secretary of the Board of Trustees in form as hereinbefore provided, he shall file the same, and at all convenient office hours shall keep it open to the inspection of all persons resident, or owning, or in the possession of property, or in the receipt of incomes within the district, for at least the space of two weeks and until the sitting of the court of revision.

106. As soon as the assessment roll shall have been completed and filed as hereinbefore provided, the secretary of the Board of Trustees or the assessor shall notify in writing, by post or otherwise, every person whose name appears upon such roll and whose address is known, as follows :

SIR (OR MADAM) ;—

SCHOOL DISTRICT of      18    }

day of    ,

You are hereby notified that your name appears on the assessment roll of this School District

for the present year as the owner (or occupant) of the following property:—(Then give description of property and assessed value). The Board of Trustees for the district will sit as a court of Revision as follows:— (Mention day, hour and place at which court shall be held), and if you consider that you have been wrongfully assessed as above stated you will have an opportunity to make a statement of your case before the above court.

Take notice that if you do not appear before this court of Revision you will not be entitled to appeal from its decision to the District Court.

(Signed) .....  
Secretary Board of Trustees.

(or) .....  
Assessor.

To.....

107. The Board of Trustees shall cause to be posted up in at least five conspicuous places within the district, a notice that the assessment roll of the district for the current year has been made up, and where it may be examined, also the time and place at which the court of revision will be held, with a notice that such parties as do not appear before the court of revision will not be entitled to appeal from the decision of the court of revision to the district court.

108. The Board of Trustees of any school district shall sit as a court of revision not less than fifteen or more than thirty days from the posting of the last of the notices hereinbefore mentioned, and shall hear all complaints that may be entered up to the end of the day so appointed, and may adjourn from day to day until such complaints have been disposed of, but complaints entered after the day mentioned may or may not be recognized by such court of revision.

109. Such court of revision shall have power to take evidence under oath, if necessary, either on behalf of the appellant or the school district and shall alter or amend the assessment roll as to them shall seem to be in accordance with what is just and right.

110. If a person be dissatisfied with the decision of the court of revision he may appeal therefrom by entering a notice to that effect with the clerk of the district court in which the school district is situated, and by depositing with the clerk of the court the costs of such appeal. Such notice of appeal must be entered within fourteen days after the close of the court of revision for the school district. The clerk shall forthwith issue an ordinary summons returnable at the then next sitting of such court, making the trustees defendants and cause a copy with the notice of appeal attached to be served on the secretary of the school board.

111. The tenant, occupant or owner of any real or personal property situated within the limits of any organized school district, may elect to pay the amount of taxes for which he is assessed on any property that he may have, to another school district, provided such school district is of the religious faith, either Protestant or Catholic, different from the one in which the property of which he is the occupant or possessor, is situated, and of the religious faith to

which such person claims to belong, at any time after the assessment is made and before the last sitting of the court of revision of the district ; and he shall notify the assessor of the district in which he is assessed to that effect, and the assessor shall thereupon note in the assessment roll the fact of such notice having been received.

#### RATE OF ASSESSMENT.

112. The trustees of the school district shall make out an estimate of the probable expenditure of the district for the current year, and shall strike such rate of assessment on the assessed value of the taxable property within the district, as shall be sufficient to meet such probable expenditure, making due allowance for all charges and probable loss in collection :

- (1) Such rate shall not exceed ten mills in each dollar of property liable to taxation for ordinary school purposes, with such additional rate per dollar as may be necessary to meet any debt or indebtedness that may have been incurred by such school district on the terms upon which it was incurred.

113. Such rate shall not be struck until after the sitting of the court of revision, but as soon thereafter as may be, and in case of any appeals having been made to the district court, the rate shall not be struck until after the sittings of the court to which such cases were appealed, provided that a sitting of the said court be held within sixty days after the close of the court of revision.

#### COLLECTION OF RATES.

114. The Board of Trustees shall cause to be made out a collector's roll for the school district, on which shall be set down the name of every person assessed, the assessed value of his real and personal property and the amount with which such person is chargeable, according to the rate of taxation struck in respect of sums ordered to be levied by the Board of trustees, with any other particulars that may be necessary, and such roll shall be placed in the hands of the treasurer for collection.

115. As soon as the treasurer shall have received the collector's roll he shall remit or cause to be remitted by mail or otherwise to each person whose name appears upon it as assessed for taxes a notice in the following form.

School District of \_\_\_\_\_ day of \_\_\_\_\_ 188  
 SIR or (MADAM).—You are hereby notified that you are assessed on the assessment roll of this district for the following properties : (*here give description and assessed value*) the taxes on which, at the rate of \_\_\_\_\_ on the dollar, amounts to \_\_\_\_\_  
 If the above amount is not paid to the undersigned within thirty days from the date of this notice, action to recover, as provided by law, will be taken.

Treasurer.

To.....

116. The treasurer shall give receipts on behalf of the school district for all taxes paid to him and shall enter the fact of such payment with the date on the collector's roll.

117. As soon as judgment has been given in the case of an assessment appealed to the district court, the trustees shall alter, amend or erase from the assessment and collector's rolls in accordance with such decision.

118. The treasurer shall notify the board of trustees from time to time the names of persons who fail to pay the taxes assessed against them and the board of trustees shall take, or authorize to be taken, such action for the collection of such taxes as is hereinafter provided in this Ordinance.

119. In case any person fails to pay the taxes assessed against him during the thirty days of notice provided in section 115 of this Ordinance, the treasurer may, by himself or his agent, levy the same with costs, by distress of the goods and chattels of the person against whom the same is assessed, situated within the school district, or of any goods or chattels found upon the premises assessed, the property of or in the possession of any other occupant of the premises, and the costs chargeable shall be those payable to deputy sheriffs.

120. The treasurer shall by advertisement, posted up in at least three public places in the school district, wherein the sale of goods and chattels distrained is to be made, give at least six days public notice of the time and place of such sale and of the name of the person in payment of whose taxes the property is to be sold, and, at the time named in the notice, the treasurer or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the taxes assessed with all lawful costs up to the close of sale.

121. If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him, or that he was entitled by lien or other right to the surplus, it shall be returned to the person in whose possession the property was when the distress was made.

- (1) If any such claim is made by the person for whose taxes the property was distrained and the claim is admitted, the surplus shall be paid to the claimant:
- (2) If the claim is contested, such surplus money shall be paid over by the treasurer of the district to the clerk of the district court within whose jurisdiction such school district is situated, who shall retain the same until the respective rights of the parties have been determined by action at law or otherwise.

122. If the taxes payable by any person cannot be recovered in any special manner provided by this Ordinance, they may be recovered, with interest and costs, as a debt due to the school district, in which case the production of the collector's roll or a copy of so much thereof as relates to the taxes payable by such person, certified as a true copy by the secretary of the school district, shall be *prima facie* evidence of the debt.

123. An abstract from the assessment and collector's rolls of the district to which such person as is mentioned in section 111 of this Ordinance, has elected to pay his assessment, showing that he has been assessed in that district for the property, the assessment of which he desired to have made therein, and has paid the taxes assessed thereon, according to the rate levied by that district for the year, accompanied by the affidavit in the regular form of the assessor and collector of such district, that the before mentioned abstract is correct, shall be held to be evidence that he has paid his taxes to that district, and he shall then not be liable for taxes to the district within the limits of which the land or property of which he is the owner or occupant is situated, but if the before mentioned abstracts be not produced with the affidavits required within thirty days from the first demand made by the treasurer of the district within which the land occupied by him lies, he shall pay the taxes assessed against him on the assessment and collector's rolls of that district to the collector thereof, and on producing proof of such payment in the manner provided in the preceding portion of this section, he shall be relieved from paying the taxes assessed against him by the district to which he elected to pay his taxes in regard to the personal property hereinbefore mentioned, and such taxes shall on collection be paid over less costs of collection, to the treasurer of the district to which such person desired to pay his taxes.

124. In no case shall a Roman Catholic be compelled to pay taxes to a Protestant school or a Protestant to a Roman Catholic school.

125. The treasurer shall on or before the first day of October in each year return the collector's roll to the secretary of the Board of Trustees, with an account of all moneys received by him, accompanied by an affidavit, made before a justice of the peace, that the collection and other proceedings have been taken in accordance with the terms of this Ordinance and that all the returns contained therein are correct.

126. The treasurer shall at the same time make a return, certified by affidavit as provided in the next preceding section, of all property upon which the taxes, or any portion thereof, remain unpaid, and the reason of the failure of such payment.

- (1) A copy of such return shall be kept on file by the secretary of the school district and shall be open to inspection of all ratepayers of the district or their agents.

27. The taxes accrued on any land or property shall be a special lien such land or property, having preference over any claim, lien, privilege or incumbrance of any party, except the Crown, and shall not require registration to preserve it.

128. Such accrued taxes shall be entered upon the assessment roll of the district against such property from year to year and shall be held to be payable, if not otherwise collected, at the same time and in the same manner as the ordinary taxes of the year.

129. Whenever the treasurer is satisfied, or is notified by the Board of Trustees, that there is sufficient distress upon any real property within the district which is in arrears for taxes, he shall proceed to levy the amount due in the same manner and under the same provisions as are contained in section 119 of this Ordinance.

130. Whenever a portion of the tax on any land has been due for and in the third year or for more than three years preceding the current year, the Board of Trustees may prepare a list, which shall be in duplicate, of all the lands liable to be sold for arrears of taxes under this Ordinance, with the amount of arrears against each lot, parcel or subdivision, and all other lawful charges standing against such land on account of such arrears of taxes, and the chairman shall certify to the correctness of such lists. One of the said lists shall be deposited with the clerk of the district court having jurisdiction within the school district, and the other placed in the hands of the treasurer, with a warrant thereto annexed, commanding him to levy at a certain date upon the land for the arrears due thereon, with the costs.

131. The proceedings for the sale of land for school taxes shall be the same, *mutatis mutandis*, as those provided in the Municipal Ordinance of 1885.

#### INCURRING DEBT.

132. Should it appear desirable to the Board of trustees of any school district that a sum of money should be borrowed upon the security of the district for the erection, purchase or improvement of a school building or buildings for the district, or for the purchase or improvement of sites for such school building or buildings, or for the purchase of suitable play grounds for the children attending the school or schools of the district, they shall, before proceeding to borrow such sum of money, receive the sanction of a majority of the ratepayers of the district, by taking a vote thereon as hereinafter provided.

133. The Board of Trustees shall give notice of the polling by notices displayed in at least ten conspicuous places throughout the district, at least twenty days before the polling, and by advertisement for the same length of time, once each week, in the newspaper published nearest the school district.

## 134. The notice shall set forth:—

- As per order*
- (1) The sum of money which it is desired to borrow;
  - (2) The term for which it is to be borrowed;
  - (3) The rate of interest to be paid;
  - (4) The purpose or purposes for which the money is to be expended, and the amount to be expended upon each;
  - (5) The place, day and hours of voting, the hours in all cases being from ten o'clock a. m. until four o'clock p. m.;
  - (6) The qualification of voters, which shall be the same as provided in sub-section (5) of section 137 of this Ordinance;

135. A certified copy of the notice of polling shall be furnished to the Lieutenant-Governor by the chairman of the board.

136. The chairman of the Board of trustees shall be returning officer, and shall act as hereinafter provided.

## 137. The returning officer shall:—

- (1) Provide himself with a book suitably ruled and headed, for the purpose of recording the vote cast, in which shall appear, in separate columns, but in one line, the name and sex of each voter, the description of the property voted upon, remarks, whether voter sworn or refused to be sworn, and the vote cast, whether "yea" or "nay" to the purpose specified in the notice of voting;
- (2) Keep posted in a conspicuous place at the place of polling, a copy of the notice of voting;
- (3) Appear at the place on the day and at the hour mentioned in the notice of voting, and continue there during the hours mentioned in such notice;
- (4) Question, either personally or by an interpreter in the voter's own language, if necessary, every person presenting him or herself to vote, as to name and location, or description of property, and record the answers given, in the poll book;
- (5) If required by any person present or of his own accord, if deemed advisable, administer the following oath, which shall express the qualification of voters:

I ..... do solemnly swear that I am a *bona fide* ratepayer of (give name of district in full) school district No. ....; that I have paid the school taxes assessed against



*amended* Schools. see No. 3 of 1885. 7 10. 86

me on the last revised assessment roll of the district (or of the municipality for the district); that I am of the full age of twenty-one years; that I am not an alien or unenfranchised Indian; that I have not voted before at this election, and that I have not received any reward, either directly or indirectly, nor have I any hope of receiving any reward for voting at this time and place. So help me God.

- (6) If the voter is not required to be sworn or if he takes the oath when required, ask him in an audible voice in the language spoken by him (either personally or through an interpreter) whether he votes for or against the purpose expressed in the notices of voting, and record his answer in the columns headed "yea" or "nay" according to the expressed wish of such voter;
- (7) Admit any two persons who have respectively voted "yea" or "nay" into the polling place, to act as scrutineers, and on demand, allow either or both of them to see any vote recorded in the book;
- (8) At the hour appointed in the notice of voting, sum up the votes cast and declare the result;
- (9) In the case of a tie after the final recount, give a casting vote;
- (10) Announce the day, being within seven days of the day of voting, when, and the place where, he will appear before ~~the~~ justices of the peace for a final recount of votes, and when all complaints against the conduct or result of the voting will be heard.

138. On appearing before the justices of the peace at the time and place appointed, the returning officer shall place in the hands of such justice the poll book used by him at the poll and shall make an affidavit before the justices, which shall be inscribed upon such book, that the election has been conducted throughout in the manner provided by this Ordinance (or with such exceptions as he shall mention) and that the returns contained therein are correct.

- (1) The justices shall then receive and record in writing any complaint that may be made under oath by any parties relative to the conduct of the voting, and shall examine into and decide such complaints by taking evidence under oath.

*see s. 10. 4/13 7 10. 86*  
139. Before proceeding to the hearing of any complaint, the justices shall require the complainant to deposit with the clerk court such sum, not being less than twenty-five nor more than one hundred dollars, as may seem necessary to them to cover the costs of the hearing of the complaint, which costs shall be paid according to the decision of such justices.

140. The decisions of the justices shall be as follows:—

- (1) If it be found that the proceedings in taking the vote have been irregular in any essential particulars and that injustice has

*amended  
and*

thereby been done, it shall be declared of no effect, and the justices shall forthwith forward to the Lieutenant-Governor a full report to that effect;

- (2) If it be found that any vote has been cast by a person not duly qualified to vote, or on account of bribery or intimidation, it shall be struck off the poll book.

*See sec 419. 10.26*  
141. When all complaints have been heard and decided upon and the corresponding alterations duly made in the poll book, the justices shall finally sum up the votes cast and shall forward to the Lieutenant-Governor a return showing the total number of votes taken, and the number remaining on each side after the recount.

*repealed*  
142. If it is desired to appeal from the decision of the justices such appeal must be made under oath within thirty days from the rendering of the decision of the justices as hereinbefore provided, before the stipendiary magistrate of the judicial district within which the school district affected is situated, and the stipendiary magistrate shall thereupon investigate such appeal and shall confirm the vote, or set it aside with costs, and appoint the time and place of holding a new election.

143. The Lieutenant-Governor, shall, in writing, empower the Board of Trustees to borrow the sum or sums of money mentioned in the notice of polling or notify the contrary to them, and shall publish the same in the Official Gazette.

*amended*  
144. All money borrowed under this Ordinance shall be borrowed by debenture.

- (1) The total face value of the debentures issued shall not be for a greater sum than one-tenth of the total assessed value of the real and personal property within the district, according to the last finally revised assessment roll of the district ;

- amended*  
(2) Debentures shall not run for a longer term than fifteen years if the school buildings be built of brick or stone, and shall not run for a longer term than ten years if the buildings be of frame or log ;

- (3) Debentures shall be of the form following :—

School District of (give full corporate name.) \$ ..... Debenture No. ....

The Trustees of (give full corporate name) promise to pay the bearer, at the ..... the sum of ..... dollars of lawful money of Canada, in ..... equal

School.

No. of 3 1885.

97

annual instalments from the date hereof, with interest at the rate of eight per cent. per annum on the terms and in the amounts specified in the coupons attached hereto.

Signed)

Chairman (or Acting Chairman).

Trustee.

Dated this..... day of..... 188..

(Coupons.)

Coupon No.....  
Debenture No.....

The Board of School Trustees of..... School District No..... will  
pay to bearer at the bank at..... on the..... day of.....  
188.., the sum of..... dollars, being the.....  
payment with the total interest at the rate of eight per cent. per annum, due on that day on school  
debenture No.....

(Signed)

Chairman (or Acting Chairman.)

Trustee..... School District No.....

(4) The treasurer of the school district shall keep a register giving the names of all persons who may have purchased any of the debentures of such district and the coupons thereof, with the time of purchase of such debentures and on any sale of such debentures or coupons to other parties being reported to him by the buyer and seller of such debentures or coupons, with a request for registration, he shall register the date of such transfer.

145. The trustees of any school district having received notice from the Lieutenant-Governor, authorizing them to contract a loan as hereinbefore provided, shall issue debentures therefor in the form set forth in sub-section (3) of the next preceeding section to secure the amount of the principal and interest of such loan upon the terms specified in the notices of calling before mentioned, and said debentures and the coupons thereof shall be sufficient, when signed by two of the trustees of the district, to bind such school district, and to create a charge or lien against all school property and rates in the school district for which such loan is made.

146. All debentures shall, on redemption, be marked "cancelled" and signed by the secretary of the Board of Trustees, across the face thereof.

#### SCHOOL MEETINGS.

147. An annual meeting of the ratepayers of every public school district shall be called by the chairman of the Board of Trustees for the first Tuesday in november in each year, or such other day not later than the Saturday following, as may be expedient, by public notice, giving the day, place and hour of meeting, and such notice shall be posted in five conspicuous places within the district one week before the day, for which the meeting was called.

amended

148. The chairman of the Board of Trustees going out of office shall be chairman of the meeting, and the secretary of the school district shall record the minutes thereof.

149. There shall at such meeting be submitted in writing by the Board of Trustees and read to the meeting:

- (1) By the secretary thereof, a statement of the teacher and signed by him, giving the following particulars:

- (a) The number of days on which school was kept open during the year succeeding the last annual meeting;

- (b) The total number of children attending school during that period, specifying the number of males and females respectively;

- (c) The religious faith professed by the children or their parents on behalf of the children;

- (d) The average daily attendance throughout the year;

- (e) The number of children who have attended 100 days during the year;

- (f) The number of children who have attended 150 days during the year;

- (g) The branches of education taught in the school and the number of children studying each;

- (h) The number of dismissals of scholars for misbehavior or other causes;

- (i) The report of the inspector on the occasion of his last inspection of the school.

- (2) By the secretary of the Board of Trustees and signed by him, a statement showing:

- (a) the names of the trustees for the year;

- (b) The vacancies created in the board during the year, if any, giving the reasons therefor with an account of the elections held to fill such vacancies and the results thereof;

- (c) The engagements entered into during the year by the board as well as an account of those entailed upon them by their predecessors.

- (d) The amount of assessable property in the district according to the last finally revised assessment roll.
  - (e) The appeals against assessment made to the district court and the result of such appeals ;
  - (f) The times of holding regular meetings of the Board of Trustees during the year, and the resolutions adopted at such meetings, with such particulars of the minutes as may be demanded by any ratepayer present ;
  - (g) Particulars of the real and personal property held by the district ;
- (3) By the treasurer of the district, and signed by him. a statement showing :
- (a) The amount of money received by the district from all sources during the year, with particulars ;
  - (b) The amounts accruing to the school district funds of the past year on account of :
    - Teacher's certificate ;
    - Capitation grants for attendance of children
    - Inspector's report of schools ;
    - Assistant teachers employed.
  - (c) The amount of money due the district from all sources with particulars ;
  - (d) The amount of money paid out by the district during the year with the particulars of payment ;
  - (e) The amount, if any, due by the district, to whom due and the terms and time of payment.
- (4) By the board of trustees, and signed by the chairman, such statement in regard to the past, present and future of the district as they may deem sufficient.

## DEFERRED SCHOOL MEETINGS.

150. In case, from the want of proper notice or other cause, any first or annual school meeting, required to be held for the election of trustees, was not held at the proper time, the district inspector of schools or any

two resident electors in the school district may, within twenty days after the time at which the meeting should have been held, call a school meeting, by giving six days notice, to be posted in at least three of the most public places in the school district, and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it is called.

**PENALTIES.**

151. Any trustee who shall:

- (1) Knowingly falsify or cause or allow to be falsified assessment rolls, voters' lists, school returns, school registers and minutes of meetings or any of the records of the district, or who shall fail to deliver up such records when called upon by the chairman or duly appointed auditor;
- (2) Misappropriate or cause to be misappropriated any of the funds or real or personal property of the district;
- (3) Enter into or have any interest in any contract with the district, for which money is to be paid or work done;

shall therefor be disqualified for fulfilling the term of office for which he was elected and shall be liable to a fine not exceeding fifty dollars.

152. Any school trustee, officer or employee of a school district who after his ceasing to hold office, detains any book, paper or thing belonging to the school district, shall thereby incur a penalty of not less than five dollars nor more than one hundred dollars for each day during which he wrongfully retains possession of such books, paper or thing after having received notice in writing from the Chairman of the Board of Trustees or from the Board of Education requiring him to deposit the same in the hands of some person mentioned in such notice.

153. If a trustee or any other officer or employee of a school district knowingly sign any false school report, school register, assessment or collector's roll, notice of meetings or elections, or receipts for money on account of the school district, or certificate or other statement as provided in this Ordinance, or shall knowingly falsify any of the above, he shall for each offence forfeit a sum not exceeding one hundred dollars.

154. Any returning officer of any school district or proposed school district, acting under the provisions of this Ordinance, who shall knowingly and wilfully prejudice the result of any voting by preventing votes from being taken or taking unlawful votes or altering the returns or books in any way or by any other means, shall be liable to a fine not exceeding one hundred dollars.

155. Should the trustees of any school district wilfully contract liabilities in the name of the district greater or other than as provided in this Ordinance, or appropriate any of the moneys of the school district for purposes other than are provided in this Ordinance, the school district through its proper officers, or the Board of Education, on its behalf, may recover from such trustees, jointly or severally, the sum or sums for which the district has been rendered liable through the action of such trustees over and above the amount provided in this Ordinance, in addition to the total amount of any moneys that have been misappropriated by such trustees.

156. All prosecutions under the preceding sections of this Ordinance may be instituted by any ratepayer of the school district affected, or by the Board of Education in any court having jurisdiction within the limits of such school district, and if the defendant does not appear or if the complaint be proven, the stipendiary magistrate or two justices of the peace shall forthwith declare the election of such trustee or other officer void, with such fine, not exceeding one hundred dollars and costs of court, as he or they may deem sufficient, and shall notify the chairman of the board to that effect, who shall thereupon give notice of an election to fill the vacancy thus created.

157. Any school district which fails to:

- (1) Employ a duly qualified teacher for at least three months in every full year after organization;
- (2) Elect and keep in office a duly qualified board of trustees;
- (3) Pay at the time and the manner agreed upon, any debentures that may have been lawfully issued by such school district;

may, upon complaint thereof being made and the fact established before a stipendiary magistrate and a certificate thereof having been received by the Board of Education, be proclaimed by the Lieutenant-Governor to be disorganized.

158. Upon such proclamation being made the chairman of the Board of Education shall thereupon become invested with all the powers of the school trustees of such district to conduct the affairs thereof, and shall deal with, and, if necessary, wind up the affairs of such district as he may deem just and expedient.

#### MISCELLANEOUS.

159. The fiscal school year shall commence on the first day of November in each year, and all accounts opened during the preceding fiscal year shall, if possible, be closed at that date.

160. All moneys accruing from fines under this Ordinance shall belong to the General Revenue Fund of the North-West Territories.

161. The Board of Education shall cause to be kept a register in which shall appear in regard to each school district:

- (1) The date at which it was erected;
- (2) The full name and number thereof;
- (3) The limits, area, situation and general description thereof, according to the plan or map of such district originally submitted to the Board of Education;
- (4) The alterations, if any, that have been made in its limits, with the date thereof;
- (5) In cases in which the affairs of the district have been dealt with directly by the Board of Education, and the circumstances attendant thereon.

162. The Board of Education shall cause to be kept a book for the registration of debentures in which shall appear:

- (1) The name and number of each school district issuing debentures;
- (2) The amount of debenture indebtedness incurred by such district from time to time;
- (3) The purposes for which the indebtedness was incurred, with particulars of the amount for each specific purpose;
- (4) The date of redemption of each debenture.

163. The Board of Education shall cause to be printed and kept on hand such forms as they may deem necessary in the carrying out of this Ordinance, and supply the same to parties interested, upon application at cost price.

164. Public notices put up in <sup>amended</sup> accordance with this Ordinance may be either printed or written.

165. The expense of all elections ordered by the Lieutenant-Governor shall be defrayed out of the general revenue fund of the North-West Territories and shall be made a charge against the school district in whose behalf they were incurred, to be repaid within one year from the date of the election or voting on account of which they were incurred.



166. In any school district where there are at least fifteen children of school age, within a radius of one mile and a half from the school house, the public school for such district must be open during both the summer and the winter terms.

167. In cases where the school is only open for the summer term, such term shall constitute the school year for the purposes of the attendance of the children and the report of the Inspector.

168. This Ordinance shall come into force on the 1st day of February 1886, from and after which date the School Ordinance of 1884 shall be repealed.

169. This Ordinance may be cited as "The School Ordinance of 1885."

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#### **No. 4 of 1885.**

#### *An Ordinance Respecting Schools.*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. The Lieutenant-Governor shall be ex-officio, a member and chairman of the Board of Education formed and constituted by the Lieutenant-Governor in Council, sitting as an Executive Council under the provisions of the School Ordinance of 1884.

2. All School Trustees holding office at the date of the passing of this Ordinance shall hold office until their successors are elected under any Ordinance in force in the Territories.

3. The following described areas of territory are hereby erected into School Districts under the School Ordinance of 1884 as fully and effectually as if the Proclamation of the Lieutenant-Governor had issued proclaiming such Districts, and the Lieutenant-Governor shall appoint a Returning Officer for each such district for the purpose of electing a Board of Trustees for the same, viz:

(1) The "School District of Poplar Grove Protestant Public School District No. 31 of the North-West Territories," comprising Sections 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34, in Township 17, Range 9, Section 25 in Township 17, Range 10, and Sections 3, 4, 5, 6, 7, 8, 9 and 10, in Township 18, Range 9, all west of the Second Principal Meridian;

(2) "School District of Thistle Protestant Public School District, No. 32 of the North-West Territories," comprising Sections 31, 32, and 33 and the north halves of Sections 29 and 30 in Township 17, Range 8; sections 35 and 36, the east half of section 25, and the north half of section 26 in Township 17, range 9, Sections 4, 5, 6, 7, 8, 9, 16, 17 and 18 in Township 18, Range 8, and sections 1, 2, 11, 12, 13 and 14 in Township 18, Range 9, all West of the 2nd Principal Meridian;

(3) "School District of Summerberry Protestant Public School District No. 33 of the North-West Territories," comprising Sections 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27 and 28, the north halves of Sections 3, 4, 5, 6, and the south halves of sections 29 and 30 in Township 17, Range 8; Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 23 and 24, the west half of section 25 and the south half of section 26, in Township 17, Range 9, all West of the 2nd Principal Meridian;

(4) "School District of Summerhill Protestant Public School District No. 34 of the North-West Territories," comprising sections 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 in Township 16, Range 8, and the south halves of sections 2, 3, 4, 5, and 6 in Township 17, Range 8, all West of the 2nd Principal Meridian;

(5) "School District of Westfield Protestant Public School District No. 35 of the North-West Territories," comprising Township 16, Range 9, West of the 2nd Principal Meridian;

(6) "School District of Greenville Protestant Public School District No. 36 of the North-West Territories," comprising Sections 1 to 30 inclusive, in Township 15, Range 10, West of the 2nd Principal Meridian;

(7) "School District of Abbotsford Protestant Public School District No. 37 of the North-West Territories," comprising Sections 31 to 36 inclusive, in Township 15, Range 10, and Sections 1 to 24 inclusive, in Township 16, Range 10, all west of the 2nd Principal Meridian;

(8) "School District of Sunnymead Protestant Public School District No. 38 of the North-West Territories," comprising sections 18, 19, 30 and 31 and the West halves of Sections 17, 20, 29 and 32 in Township 14, Range 2, and sections 13, 14, 23, 24, 25, 26, 35 and 36 and the East halves of Sections 15, 22, 27 and 34 in Township 14, Range 3, all West of the 2nd Principal Meridian;

(9) "School District of Mount Pleasant Protestant Public School District No. 39 of the North-West Territories," comprising Sections 7, 18, 19, 30 and 31, in Township 19, Range 14; Section 6 in Township 20, Range 14; Sections 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, in Township 19, Range 15, and sections 1, 2, 3 and 4 in Township 20, Range 15, all west of the 2nd Principal Meridian;

(10) "School District of Bonnycastle Protestant Public School District No. 40 of the North-West Territories," comprising all that portion of Township 20 in Range 12, West of the 2nd Principal Meridian lying North of the Fishing Lake in said Township;

(11) "School District of Lindsay Protestant Public School District No. 41 of the North-West Territories," comprising sections 30, 31 and 32 in Township 46, Range 27; Sections 25, 26, 35 and 36 in Township 46, Range 28; Sections 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20 and the North-West quarter of Section 3, in Township 47, Range 27; Sections 1, 12, 13 and 24, in Township 47, Range 28, all west of the 2nd Principal Meridian; also sections 25 and 26 in Township 46, Range 1, and Sections 1, 12, 13 and 24 in Township 47, Range 1, West of the 3rd Principal Meridian;

(12) "School District of Kinisteno Protestant Public School District No. 42 of the North-West Territories," comprising sections 3, 4, 5, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35, and the East halves of sections 2 and 14, in Township 45, Range 21; Sections 10, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36 in Township 45, Range 22, and section 2, in Township 46, Range 22, all west of 2nd Principal Meridian;

(13) "School District of Hillburn Protestant Public School District No. 43, of the Northwest Territories," comprising sections 19, 20, 21, 28, 29, 30, 31, 32 and 33 in Township 15, Range 31; sections 4, 5, 6, 7, 8, 9, 16, 17 and 18, in Township 16, Range 31; Sections 22, 23, 24, 25, 26, 27, 34, 35 and 36 in Township 15, Range 32; and Sections 1, 2, 3, 10, 11, 12, 13, 14, and 15, in Township 16, Range 32, all west of the 1st Principal Meridian;

(14) "School District of Island Lake Protestant Public School District No. 44 of the North-West Territories," comprising Township 47, Range 25, West of 2nd Principal Meridian;

(15) "School District of Fleming Protestant Public School District No. 45, of the North-West Territories, comprising sections 30 to 36, inclusive, in Township 12, Range 30, and sections 1 to 24, inclusive, in Township 13, Range 30, West of 1st Principal Meridian;

(16) "School District of Fairfield Protestant Public School District No. 46 of the North-West Territories," comprising sections 1 to 39, inclusive, in Township 12, Range 30, West of the 1st Principal Meridian;

(17) "School District of Macleod Protestant Public School District No. 47 of the North-West Territories," comprising from the point where the old Man's River crosses the Western side of section 5, in Township 9, Range 26, continuing two miles on each side down stream of the said river to the

point where said river crosses the Northern side of Section 10, Township 10, Range 25, West of the 4th Principal Meridian;

(18) "School District of Pheasant Forks Protestant Public School District No. 48, of the North-West Territories," comprising Township 21, Range 9, West of the 2nd Principal Meridian;

(19) "School District of Saint Laurent Catholic Public School District No. 9, of the North-West Territories," comprising sections 3 to 36, inclusive, in Township 44, Range 1, and sections 25 and 36 in Township 44, Range 2, West of the 3rd Principal Meridian;

(20) "School District of Lourdes Catholic Public School District No. 10 of the Northwest Territories," comprising that portion of Township 45, Range 1, West of the 3rd Principal Meridian, and also that portion of Township 45, Range 28, West of the 2nd Principal Meridian, lying south of the South Branch of the Saskatchewan River;

(21) "School District of Lacombe Catholic Separate School district No. 1 of the North-West Territories," comprising sections 25 to 36, inclusive, in Township 23, and sections 1 to 24 inclusive, in Township 24, Range 1, West of the 5th Principal Meridian;

4. The following persons are hereby declared to be the Trustees of the "School District of Park Protestant Public School District, No. 20, of the North-West Territories," viz.: Daniel Campbell, Joseph Callin and George Vigar.

5. The following persons are hereby declared to be the Trustees of the "School District of Bellerose Catholic Public School District No. 6, of the North-West Territories," viz.: Octave Bellerose, Julien Savard and Charles Dumas.

6. The following persons are hereby declared to be the Trustees of the "School District of Saskatoon Protestant Public School District No. 13, of the Northwest Territories," viz. Henry Trounce, Robert M. Dalmage and Thomas Copland.

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*Repealed see No 2 of 1886*

**No. 5 of 1885.**

*An Ordinance to Amend Ordinance No. 3 of 1884,  
Known as "The Administration of Civil Jus-  
tice Ordinance, 1884."*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Sections numbered one, two, three and four respectively of Ordinance No. 3 of 1884, intituled "An Ordinance to amend and consolidate as amended the Ordinances respecting the administration of Civil Justice in the North-West Territories," are hereby repealed, and the following substituted therefor.

(1) "The Stipendiary Magistrates appointed under the North-West Territories Act 1880, and amendments thereto, shall be and form a Court of Civil Jurisdiction to be styled "The High Court of Justice," and the word "Judge," whenever it occurs in this Ordinance, shall mean such Stipendiary Magistrate."

(2) "The Lieutenant-Governor upon the request in writing of the Judges, or a majority of them, shall divide the Territories into Judicial Districts, and give to each of them an appropriate name, and from time to time alter the limits of such Districts, but such alterations shall not affect suits pending, when such alteration takes effect, which shall continue, as if no such alteration had been made."

(3) "The divisions into which the Judicial Districts are now divided under and by virtue of "The administration of Civil Justice Ordinance 1884, by proclamation of the Lieutenant-Governor shall be Judicial Districts, until altered under the provisions of this Ordinance."

(4) "Proceedings in suits pending in any of the Courts existing when this Ordinance takes effect, shall not lapse, but shall be continued under the changes in name and title hereby provided, and Records of such Courts shall be and remain Records of Courts under this Ordinance."

(5) "Writs of execution and attachment in force, when this Ordinance takes effect, shall continue in force within the area of Territory such Writs extend to, until executed."

(6) "Courts of Civil Jurisdiction shall be held in every Judicial District, each such Court shall be a Court of Record, and shall be styled

“ ‘High Court of Justice, . . . . . District,’ the appropriate name of the  
“ District being placed before the word District.”

(7) “The judges, or a majority of them shall in writing from time to  
“time settle the District Courts, over which they shall respectively pre-  
“side, and sittings of such Courts shall be held at such times and places  
“as the Judge thereof shall appoint.”

2. Section five of the said Ordinance is hereby amended, by striking  
out all the words after the word “Intestacy,” and substituting the fol-  
lowing therefor, “and the direction and regulation of the management  
“and disposition of the estates of infants and insane persons.”

3. Section seven of the said Ordinance is hereby amended, by strik-  
ing out the words “five hundred,” and substituting therefor the words  
“one thousand.”

4. Section thirteen of the said Ordinance is hereby amended by  
striking out the words “to the proper officer,” and substituting therefor  
the words “to the person applying therefor.”

5. Sub-section three of section fourteen is hereby amended  
by striking out the words “and that it came to his knowledge.”

6. Sub-section five of the said section fourteen is hereby repealed,  
and the following substituted therefor: “Except by special permission of  
“the Judge, no case shall be heard at any sittings, unless the summons  
“to appear has been served at least ten days previous to the sittings  
“named in the summons, and unless the summons be returned to the  
“Clerk before the sitting of the Court named therein.”

7. Section fifteen of the said Ordinance is hereby amended by strik-  
ing out the words “upon the Defendant in the form “D” of the said  
appendix.”

8. Section eighteen of the said Ordinance is amended, by striking  
out the words “or division” and by adding thereto the following words:  
“but the judge may, where the ends of justice seem to require it, on  
“proper application therefor, change the place of trial on such conditions  
“as may be by him considered proper.”

9. Section twenty-one of the said Ordinance is hereby repealed, and  
the following substituted therefor; “In appealable cases, the party de-  
“siring to appeal, shall, within fifteen days from the delivery of judg-  
“ment, leave with the clerk a notice in writing of his intention to ap-  
“peal from such judgment, and within fifteen days from the  
“delivery of judgment as aforesaid, or within such further period  
“as the judge may order, pay into court the sum of three hundred dol-  
“lars as security for costs of appeal, in the event of such appeal being

“ dismissed with costs; failing to give such notice or make such deposit, the right of appeal shall cease; after such deposit on application of the appellant execution shall be stayed in the original case in the following cases:—”

(1) “ If the judgment appealed from directs the assignment or delivery of personal property, execution shall not be stayed until the things directed to be assigned or delivered, have been brought into the court appealed from, or placed in the custody of such officer or receiver, as the judge may appoint, nor until security has been given to the satisfaction of the judge, and in such sum as he directs that the appellant will obey the order of the Court of Appeal;”

(2) “ If the judgment appealed from directs the execution of a conveyance or any other instrument, execution shall not be stayed until the instrument has been executed and deposited with the clerk of the court appealed from, to abide the judgment of the court of appeal;”

(3) “ If the judgment appealed from directs the sale or delivery of possession of real property or chattels real, execution shall not be stayed until security has been entered into to the satisfaction of the judge of the court appealed from, and in such sum as the judge directs, that during the possession of the property by the appellant, he will not commit or suffer to be committed any waste on the property and that if the judgment be affirmed, he will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession thereof, and also in case the judgment is for the sale of property and the payment of a deficiency arising upon the sale, that the appellant will pay the deficiency;”

(4) “ If the judgment appealed from directs the payment of money, execution shall not be stayed, until the appellant has given security to the satisfaction of the judge of the court appealed from that, if the judgment or any part thereof be affirmed, the appellant will pay the amount thereby directed to be paid, or the part thereof as to which the judgment may be affirmed, if it be affirmed only as to part, and all damages awarded against the appellant on the appeal.”

10. Section twenty-two of the said Ordinance is hereby amended, by striking out the words “of all the evidence and exceptions,” and inserting in place thereof the words “his notes of the evidence and exceptions.

11. Section twenty-three of the said Ordinance is hereby repealed.

12. Section twenty-five of the said Ordinance is hereby amended, by striking out the first seven words thereof, and inserting in their place the following words: “ When the successful party in a suit is entitled to have judgment entered in his favor, the fees and other costs, to which

" he is entitled, shall be taxed by the clerk, and the judgment entered as  
" of the date of its delivery."

13. Section twenty-six of the said Ordinance is hereby repealed.

14. Section twenty-seven of the said Ordinance is hereby repealed  
and the following substituted therefor :

" 27. After fifteen days from the date of judgment, unless other-  
" wise directed by the judge, the same or some portion thereof remain-  
" ing unpaid, the party in whose favor such judgment has been entered,  
" may have one or more writs of execution, in the form "H" of the appen-  
" dix, for levying, within the district named in such writ, the amount  
" due on such judgment, and legal interest thereon, and costs subsequent  
" to such judgment, by distress and sale of the goods and chattels and  
" personal property, liable to seizure and sale for debt, of the party,  
" against whom the said judgment has been so entered."

15. Section twenty-nine of the said Ordinance is hereby amended  
by striking out the words: "in at least twelve", and inserting in place  
thereof the following words: "Copies of which notice shall be posted in  
the clerk's office, and at least five."

16. Section thirty-one of the said Ordinance is hereby amended by  
adding thereto the following sub-section :

(1) "In cases where registered mortgages upon lands or chattel  
" mortgages are seized by the sheriff, such seizure shall have no effect  
" until a notice thereof in writing, signed by the officer charged with the  
" execution of such writ has been deposited in the registry office for the reg-  
" istration division, wherein the lands affected by such mortgages are situ-  
" ated, or in the office of the clerk of the court where the chattel mort-  
" gage is registered, and an entry of every such notice, when delivered,  
" shall be made by the registrar or clerk as the case may be, in the  
" proper books : for which service, in each instance, a fee of fifty cents  
" shall be payable to the registrar or clerk, as the case may be."

17. Section thirty-five of the said Ordinance is hereby amended by  
striking out the words, "his judicial district", and inserting in place  
thereof the words "the district named in the writ."

18. Section thirty-eight of the said Ordinance is hereby amended by  
striking out the first thirty-three words thereof and inserting the follow-  
ing words in their place: " Witnesses attending the trial shall, whether  
" subpoenaed or not be entitled to receive such fees, as are authorized by  
" the tariff hereinafter provided for," and by adding at the end of the  
section the following words: " and necessary disbursements made in pro-  
" curing exhibits used at the trial."



19. Section forty-five of the said Ordinance is hereby amended by inserting after the word "transaction" the words "or joint liability."

20. Section forty-six of the said Ordinance is hereby amended, by striking out all the words therein after the word "writing", and inserting in place thereof the words, "which leave shall only be granted upon "satisfactory proof by affidavit that the judgment, or some part thereof, "naming the amount, is outstanding and unpaid."

21. Section forty-seven of the said Ordinance is hereby amended, by striking out all the words therein after the word "execution" and inserting in place thereof the following words: "on application *ex parte* to the "judge by the party entitled to revival, supported by affidavit showing "the grounds on which such revival is sought."

22. Section forty-nine of the said Ordinance is hereby amended, by striking out the word thirty and substituting therefor the word "fifteen."

23. Section fifty of the said Ordinance is repealed and the following substituted therefor:—"50. The expiring of any writ or process without "service or execution shall not abate the suit, but the suit may be continued by the issue of *alias* or *pluries*, writs or processes as may be "necessary, and concurrent writs of summons may always be issued."

24. Section fifty-two of the said Ordinance is hereby amended, by striking out the words "appointed to" and substituting therefor the words "who should."

25. Section fifty-five of the said Ordinance is amended, by adding thereto:—"And suitable fire proof safes and vaults for the keeping of "such books, records of courts and all original documents necessary to "be kept and preserved by the clerks, shall be also provided for each "court, to be paid for out of the aforesaid revenue fund, when funds "therefore are provided."

26. Section fifty-seven of the said Ordinance is hereby amended, by striking out the first seven words and inserting in lieu thereof the words, "whenever an advocate", and also by striking out the words "of "five dollars to be increased according to the difficulty and importance "of the case to a sum."

27. Section sixty of the said Ordinance is hereby amended by inserting after the word "thereof" the words "and attendance thereat by "Advocate."

28. Section sixty-two of the said Ordinance is hereby amended, by striking out the words "from the Clerk," and by adding at the end of said section the following words:—"And such allowance for obtaining such summons, and attendance at the hearing, by Advocate,

“ as shall be approved of by the Judge, shall be taxed by the Clerk, and allowed to either party, either in whole or in part, as the Judge may direct.”

29. Section sixty-six of the said Ordinance is hereby repealed.

30. Section sixty-seven of the said Ordinance is hereby amended, by striking out all of sub-section two thereof after the word “Territories.”

31. Sub-sections one and two respectively of Section seventy-six, of the said Ordinance are hereby amended, by inserting between the words “had” and “is” in each of said sub-sections the following words: “Or in the case of a Corporation, that it has a Branch or Agency thereof in the said District; or in the case of a non-resident, that he has an Agent, Managing Clerk, or other representative resident, and carrying on business within the said District.”

32. Section eighty-one of the said Ordinance is hereby amended, by striking out the words “of the District Court.”

33. Section Ninety of the said Ordinance is hereby amended, by striking out the word “by” where it first appears in the tenth line of said Section.

#### NEW SECTIONS.

34. When several persons sue out Writs of attachment against a Defendant in attachment, the proceeds of the property and effects attached when paid into the Court, as other monies realized under process of law are directed, shall, subject to any priorities authorized by law, be rateably distributed among such of the attaching plaintiffs in such Writs, and such other persons, as shall in due course obtain Judgment against the Defendant in the said Court, and sue out executions thereon in proportion to the sums actually due upon such Judgments, and the Judge may on application delay such distribution to give reasonable time for the obtaining of Judgments, as also fix a date for such distribution.

35. The commencement of a suit, or the issue of a summons or taking of a proceeding in any cause, in which any title or interest in lands is brought in question, shall not be deemed notice of such suit or proceeding to any person not being a party thereto, until a certificate by the Clerk of the Court in the following form has been registered in the Registry Office of the Registration District, in which the land is situated:

“I certify that, in a suit or proceeding now pending between A. B. and C. D., some title or interest is called in question in the following land (describing it.)”

36. Where no probate of the Will of a deceased person or letters of administration to his estate have been granted, and representation of such estate is required in any action or proceeding in Court, the Judge may appoint some person administrator *ad litem*, according as the case may require, to the estate, and the person so appointed shall give such security, if not dispensed with, as the Judge may require, and have *pendente lite*, as the case may be, the rights, authorities, and responsibility of an administrator, and such fees shall be payable, when appointments of administrators are made under this section, as in other cases.

37. The Bond, Form "O," to be taken by the Clerk as required by Section eighty-six of the said Ordinance shall, in addition to the condition heretofore provided, be conditioned to indemnify and save harmless the defendant from all loss and damages which he may sustain by reason of the seizure, and of any deterioration of the property in the meantime, in the event of its being returned, and all costs, charges, and expenses which the defendant may incur.

38. In cases where the claim of the plaintiff is founded on a promissory note, bill of exchange, contract or other document, in which the amount of the claim is ascertained by the signature of the defendant, or on a merchants account, the Clerk on receiving a plain statement in writing of such claim, shall issue a special summons in the form following, which, with as many copies of the same as there are defendants, shall be delivered for service as in other cases :

"CANADA,  
NORTH-WEST TERRITORIES.

“In the High Court of Justice.

District.

“Between

Plaintiff,

and

Defendant.

"To the above named Defendant

“The Plaintiff demands of you the sum of  
 “Dollars, as shown by his claim herewith. You are notified that this  
 “Summons is returnable on the \_\_\_\_\_ day after the  
 “day of the service hereof upon you, and take notice that if you dispute  
 “the said claim, or some part thereof, you are to leave with the Clerk of  
 “this Court within \_\_\_\_\_ days after the day of such  
 “service, a notice to that effect, accompanied by an affidavit that the  
 “filing of such notice is not for the purpose of obtaining delay, and that  
 “you have a good defence to the action, or to the extent named in the  
 “notice, as you are advised and believe; otherwise after such return day  
 “has passed, Judgment may be given against you by default. In case

"you give such notice disputing the claim, the cause will be set down  
 "for trial, and tried at the Sittings of this Court to be holden at  
 " on the day of  
 " A.D. 18 at 10 o'clock in the  
 "forenoon, at which time and place you are required to appear.  
 "And in default of your so appearing, the Plaintiff may proceed  
 "to obtain judgment against you.

"Issued at  
 "this day of A.D. 18

Clerk of Court."

39. In cases where the defendant resides in the district, whence the special summons issued, the time limited for the defendant to appear, and contest the claim of the plaintiff, shall be ten days after service, and when the defendant resides in another District, fifteen days.

40. After the time limited for the Defendant to appear and contest the claim, as named in the summons, has expired, and no notice disputing the claim has been filed with the clerk by the defendant, an application may be made by the Plaintiff, or by some one on his behalf, to the Judge for an order that final judgment be entered; upon the granting of which order, final judgment shall be entered, as in ordinary cases, but such order shall not be had, except upon production of an affidavit of the Plaintiff, or his duly authorized agent, verifying the indebtedness of the defendant, and the amount thereof.

41. Whenever a defendant, served with a special summons, desires to appear and contest the plaintiff's claim, he may do so, within the time named in the summons, on filing with the Clerk a notice of his intention to do so, accompanied by an affidavit of himself, or his duly authorized agent in that behalf, and who is conversant with the facts, to the effect that the filing of the notice is not for the purpose of obtaining delay, but that the defendant has, as he is advised and believes, a good and valid defence to the action.

42 The defendant may at any time, upon the order of the Judge of the Court whence such summons is issued, be permitted to come in and defend such action, upon such terms as to costs and otherwise, as to the Judge may seem just.

43. In the event of there being two or more defendants in any such action, and one or more of them shall not be served in proper time before the day of Court mentioned therein, such action thereby shall not thereby be discontinued, but the Clerk on request shall, at the foot or in the margin of the original summons and the copy or copies thereof, state that the time for the trial thereof in the event of the defendant or defendants disputing the Plaintiff's claim, is extended to the next sittings of the said Court, giving the time and place of such sittings.

44. In the event of one or more defendants disputing the claim of the plaintiff, judgement shall not be given, until the said cause shall be tried and on such trial the Judge may order that the Judgement shall not be entered against any of the defendants.

#### OVERHOLDING TENANTS.

45. In case a tenant after his lease or right of occupation has expired, or been determined by the landlord or the tenant by a notice to quit, or a notice pursuant to any proviso in any lease or agreement, in that behalf, or has been determined by any other act, whereby a tennancy or right of occupation may be determined or put an end to, wrongfully refuses, upon demand made in writing, to go out of possession of the land demised to him, or which he has been permitted to occupy, his landlord or the agent of his landlord may apply to the Judge of the Court holden within the District, within which such lands are situated, setting forth upon affidavit the terms of the demise or right of occupation, if verbal, and annexing a copy of the instrument creating or containing such demise or right of occupation, if in writing, or if a copy cannot be so annexed, then setting forth the terms of the demise or right of occupation and the reason why a copy of such instrument cannot be annexed, and also annexing a copy of the demand made for the delivery up of possession, and stating also the refusal of the tenant to go out of possession, and the reasons given for such refusal, if any be given, adding such explanation in regard to the ground of such refusal, as the truth of the case may require. If upon such affidavit it appears to such judge, that the tenant wrongfully holds over without color of right, and that the landlord is entitled to possession, such Judge may direct the issue of a summons out of the Court by the Clerk returnable before such Judge, at such time and place, as he may think proper, when he may enquire and determine whether the person complained of was tenant to the complainant for a term or period, which has expired, or has been determined by a notice to quit, or otherwise, and whether the tenant without any color of right holds the possession against the right of the landlord, and whether the tenant refuses wrongfully to go out of possession. Upon proof of personal service of such summons upon the defendant, or that reasonable efforts, stating the same, have been made to effect such service without success, and that a copy of such summons has been left with some grown up person living on the premises, or if the premises are unoccupied, that a copy of such summons has been posted up in a conspicuous place on the premises, what the judge deems a reasonable time before the time therein appointed for appearing to the same, if the tenant fails to appear upon the return day of such summons, such judge shall hear the complaint and adjudicate thereon, and if he decides that the tenant holds without color of right, may order judgment to be entered in the court for the plaintiff, and a writ of *habere facie possessionem* to issue out of the court, at such time as he may order, to place the plaintiff forthwith in possession of the premises in question ; but if the ten-

ant appears at such time and place, such judge may in a summary way, as in other civil cases, in court examine into the matter, and if it appear to the said judge that the case is one clearly coming under the true intent and meaning of this section, and that the tenant holds without color of right against the right of the plaintiff, then he shall order the issue of such writ as aforesaid ; otherwise he shall dismiss such case, and the proceedings in any such case shall form part of the records of such court. Such judge may award costs, as in other cases, and in case the defendant is ordered to pay such costs the said writ shall direct the person having the execution thereof to make the amount of such costs out of the goods and chattels of the defendant within such district, and in case the plaintiff is ordered to pay costs, execution may issue out of the court for such costs, as in other cases. Witnesses may be subpoenaed in any such case, and the several provisions of the administration of Civil Justice Ordinance, 1884, and amendments thereto, relating to witnesses and evidence shall apply as in other cases before the court.

46. In the construction of the next preceeding section of this Ordinance the word "tenant" shall mean an occupant, a subtenant, under tenant, and his and their assigns and legal representatives, and the word "landlord" shall mean and include the lessor, owner, the person giving or permitting the occupation of the premises in question, and the person entitled to the possession thereof, and his and their assigns and legal representatives.

#### GENERAL PROVISIONS.

47. The judges or a majority of them may make rules and orders for the management and disposition of the estates of insane persons, the appointment of guardians therefor, and the exacting security for the due performance of their duties by such guardians.

48. Any act, matter, or thing to be done and any duty to be performed by the clerk under and by virtue of this Ordinance may be done and performed as fully and effectually by the judge.

49. This Ordinance shall take effect on after the first day of February, A. D. 1886.

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**No. 6 of 1885.**

*An Ordinance Respecting the Duties of Clerks of Courts.*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. On and after the first day of February, A. D. 1886, whenever in any Ordinance duties are imposed upon the clerk of a district court, the same shall be performed by the clerk of the civil court of the district, and the expression "District" or "Division" shall thereafter mean Judicial District.

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**No. 7 of 1885.**

*An Ordinance to Regulate the procedure in Appeals in Capital Cases.*

*Passed 18th December, 1885.*

Whereas by section seventy-seven of "The North-West Territories Act, 1880," it is in effect enacted that any person convicted of any offence punishable by death may appeal to the Court of Queen's Bench, Manitoba, which shall have jurisdiction to confirm the conviction or to order a new trial; and that the mode of such appeal and all particulars relating thereto shall be determined from time to time by Ordinance of the Lieutenant-Governor-in-Council;

And whereas it is desirable to make provision for such cases in so far as the Lieutenant-Governor-in-Council can;

Therefore be it enacted by the Lieutenant-Governor-in-Council as follows:

1. Whenever any person is convicted of any offence punishable by death and upon such conviction gives notice to the Stipendiary Magistrate presiding at his trial of his desire to appeal to the Court of Queen's Bench of Manitoba, the Stipendiary Magistrate shall, without delay, forward, under cover, by post directed to the prothonotary or clerk to the said Court of Queen's Bench of Manitoba, a record of the said trial, together with a copy of his notes of the evidence taken thereat and of any exhibits or documents filed in evidence on the trial, all duly certified by him, and further, upon requisition from the said court, the said Stipend-

118. No. 7 of 1885. *Capital Cases.*

iary Magistrate shall transfer to the said court any original exhibits which may be called for by such requisition.

2. Unless the notice hereinbefore mentioned be given within ten days after conviction, the right to appeal shall cease.

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**No. 8 of 1885.**

*An Ordinance Exempting Certain Property from Seizure and Sale under Execution.*

*Passed 18 December, 1885*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. The following real and personal estate are hereby declared free from seizure by virtue of all Writs of Execution issued by any Court in these Territories, namely:

- (1) The necessary and ordinary clothing of the defendant and his family;
- (2) The furniture and household furnishings belonging to the defendant and his family to the value of five hundred dollars;
- (3) The necessary food for the defendant's family during six months, which may include grain and flour, or vegetables and meat either prepared for use or on foot;
- (4) Two cows, two oxen, and one horse, or three horses or mules, six sheep, and two pigs, besides the animals the defendant may have chosen to keep for food purposes, and food for the same for the months of November, December, January, February, March and April, or for such of these months or portions thereof, as may follow the date of seizure, provided such seizure be made between the first day of August and thirtieth day of April next ensuing;
- (5) The harness necessary for three animals, one wagon or two carts, one mower or cradle and scythe, one breaking plough, one cross-plough, one set harness, one horse rake, one sewing machine, and one reaper or binder;
- (6) The books of a professional man;
- (7) The Tools and necessities used by the defendant in the practice of his trade or profession;



- (8) Seed grain sufficient to seed all his land under cultivation, not exceeding eighty acres, at the rate of two bushels per acre, defendant to have choice of seed, and fourteen bushels of potatoec.
  - (9) The homestead of the defendant, provided the same be not more than one hundred and sixty acres; in case it be more, the surplus may be sold subject to any lien or incumbrance thereon;
  - (10) The house and buildings occupied by the defendant to the extent of fifteen hundred dollars, and also the lot or lots, on which the same are situate according to the registered plan of the same.
2. The defendant shall be entitled to a choice from the greater quantity of the same kind of articles, which are hereby exempted from seizure.
3. Nothing in this Ordinance shall exempt from seizure any article, except for the food, clothing and bedding of the defendant and his family, the price of which forms the subject matter of the judgment upon which execution against the defendant is issued.
4. Ordinance No. 8 of 1879 or any ordinance heretofore in force in the North-West Territories exempting any property from seizure and sale under execution is hereby repealed, provided always that the provisions of Ordinance No. 8 1879 shall be held to apply to all debts contracted in the North-West Territories before the passing of this ordinance.

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**No. 9 of 1885.**

*An Ordinance to repeal Ordinance No. 18 of 1884, and to amend Ordinance No. 10 of 1879 Intituled "An Ordinance respecting the Ordinances of the North-West Territories.*

*Passed 18th December, 1885.*

Be it enacted by the Lietenant-Governor of the North-West Territories in Council, as follows:

1. Ordinance Number Eighteen of 1884 is repealed, and the following substituted therefor:

Sub-section Number Eight of Section Four of Ordinance Number Ten of 1879 is amended, by adding thereto the following words "And the word "time" shall mean "Standard Time."

**No. 10 of 1885.**

*An Ordinance Respecting the Legal Profession.*

*Passed 18th December, 1885.*

Whereas it is expedient to make provision for the enrollment of the persons, who shall be empowered to act on behalf of others, as Counsel or Advocate in the Courts of Civil Jurisdiction in the North-West Territories;

Therefore be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows;

1. The following persons, and no others, shall be entitled to recover or receive any fee or reward for suing out process, defending actions, conducting proceedings, and practising before the Courts of Civil Jurisdiction in the Territories on behalf of any other person, or persons, or Corporations:

- (1) Any person, who has been duly called to the Bar of any of the Courts in Her Majesty's Dominions, or who has been admitted to practise as an attorney, advocate, or solicitor in any of said courts, and who is actually residing in the Territories on the date of the passing of this Ordinance;
- (2) Any such person, who hereafter becomes a Resident of the Territories;
- (3) Any person who has been actually and continuously engaged in the practice of law in the said Territories for the two years immediately prior to the passing of this Ordinance, and who has studied law in a law office within Her Majesty's dominions for at least three years;
- (4) Any subject of Her Majesty of the age of twenty-one years, actually residing in the Territories at the time of the passing of this Ordinance, who shall furnish to the judge of the district, within which he is residing, satisfactory evidence of good character, and that he has been practising law in the North-West Territories prior to the passing of this Ordinance, and who shall, within twelve months from the passing thereof, present himself for and pass an examination to the satisfaction of such judge and a duly enrolled advocate of the Territories to be named by such judge, on the general principles of the common law and equity jurisprudence, the British North America Act, and amendments thereto, the Statutes of the Dominion, and the Ordinances of the North-west Territories, and shall subscribe and take before such judge the oath hereinafter prescribed;
- (5) Any subject of Her Majesty of the age of twenty-one years actually residing in the Territories, who shall furnish to the judge

of the district, in which he is residing, satisfactory evidence of good character, and that he has pursued the study of law for at least three years, and has been during such time articled to and actually engaged in the study and practice of law in the office of a duly enrolled advocate in the North-West Territories; and said articles and any assignment thereof shall be filed with the clerk of the District Court, within which such advocate resides, within one month after the execution thereof, together with an affidavit verifying such execution; and shall pass an examination to the satisfaction of such judge and a duly enrolled advocate of the Territories, to be named by such judge, in the subjects specified in the preceeding sub-section, and shall take and subscribe to the oath hereinafter prescribed.

2. All such persons shall be officers of the several courts of the Territories, and shall be known and designated as advocates of such courts, and be entitled and empowered to act in any court of civil jurisdiction in the North-West Territories.

3. This ordinance shall not apply for the period of twelve months to any of the persons referred to in sub-section four of section one so as to prevent such persons from practising law during such period the same as heretofore, and in order to enable them to prepare for and pass the examination in such sub-section provided.

4. The persons referred to in sub-sections one and three of section one shall be entitled to be enrolled as such advocates upon production to the Lieutenant-Governor of a certificate from a judge of the North-West Territories to the effect that he is entitled to be enrolled, and was at the time of the passing of this Ordinance actually residing in the North-West Territories, and paying a fee of two dollars.

5. The persons referred to in sub-section two of section one of this Ordinance shall be entitled to be enrolled as such advocate upon production to the Lieutenant-Governor of a certificate from a judge of the North-West Territories to the effect that he is entitled to be enrolled, and has since the passing of this Ordinance become a resident of the North-West Territories, and paying a fee of fifty dollars.

6. The persons referred to in sub-section four and five of section one of this Ordinance shall be entitled to be enrolled as such advocate upon production to the Lieutenant-Governor of a certificate from a judge of the North-West Territories and the advocate by whom such applicant has been examined to the effect that such person is entitled to be enrolled, and has passed the examination provided by this Ordinance and paying a fee of fifty dollars.

7. Upon receipt of such certificate and fees the Lieutenant-Governor shall cause the name of the advocate to be enrolled in a book,

to be kept for that purpose, the date of such enrollment and the name of the judge who has certified to his being entitled to be enrolled, and shall issue to such advocate a certificate in the form following :—

Certificate to practise as an advocate in the North-West Territories.

No. . . . .

This is to certify that  
having complied with the provisions of "the Ordinance respecting the  
Legal Profession" was, on the \_\_\_\_\_ day of \_\_\_\_\_  
A. D. 18\_\_\_\_, duly enrolled as an advocate of the courts of civil  
jurisdiction in the North-West Territories; and as such is entitled to all  
the rights and privileges granted by said Ordinance.

Given under my hand and the seal of the North-West Territories.  
at this day of  
in the year of our Lord, one thousand eight  
hundred and

Lieutenant-Governor;  
of the North-West Territories.

" Endorsement.

Registered this                  day                  , A. D. 18  
Liber                  Folio

Clerk of Council."

8. The production of such certificate, purporting to be signed by the Lieutenant-Governor, shall be *prima facie* evidence that the holder is entitled to the rights and privileges of an advocate.

9 All fees paid under this Ordinance shall belong to the General Revenue fund of the Territories.

10. The oath to be taken as hereinbefore prescribed shall be as follows :

I A. B., do solemnly swear, that I will well and truly and honestly demean myself as an Advocate in the North-West Territories, according to the best of my knowledge skill and ability. So help me God.

11. The judge of the district, within which such advocate is residing or practising, upon the application of any person upon such notice to such advocate, as the judge may direct, may order that any advocate, so enrolled as aforesaid, be struck off the rolls, or be suspended for such time as such judge may think proper, for non-payment of monies received by him as such advocate, after judgment shall have been entered against such advocate, and the period of three months shall have elapsed without the payment thereof, or for the conviction of any such advocate of felony or misdemeanor ; and the Lieutenant-Governor, upon receiving

from such judge such order, shall note opposite the name of such advocate a minute thereof and thereafter such advocate shall be debarred from the privileges of this Ordinance during the time limited by such order.

12. Enrollments made up to the first day of March A. D. 1886, shall have effect from the passing hereof.

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**No. 11 of 1885.**

*An Ordinance relating to Medical Practitioners in the North-West Territories.*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. The following persons, and no others, shall be allowed to practise surgery or midwifery in the North-West Territories for, hire, gain, or hope of reward;

- (1) All persons at the time of the passing of this Ordinance actually residing in the North-West Territories, and who possess any Medical degree or diploma from any University or College in Her Majesty's Dominions; which is empowered by law to grant Medical or Surgical degrees, whereby such person is authorized to practice physic, surgery or midwifery, or any license from any Board or Corporate body in Her Majesty's Dominions empowered by law to grant licenses to practice physic, surgery or midwifery;
- (2) All persons at the time of the passing hereof, being British Subjects, and actually residing in the North-West Territories, and who have for the period of one year, prior to such passing, been in actual practice of physic, surgery and midwifery in such Territories, and who possess a Medical degree or diploma or license from any University or College in the United States of America. whose curriculum demands at least two years attendance at medical and surgical lectures, provided such university or college is authorized by law to grant such degrees or diplomas;
- (3) All persons at the time of the passing hereof actually residing in the North-West Territories, and who have for the period of one year, prior to such passing, been in the actual practice of physic, surgery or midwifery, and who shall pass an examination, as

hereinafter provided, within one year after the passing of this Ordinance :

- (4) All persons who hereafter become actual residents of the North-West Territories, and who possess any medical degree or diploma from any university or college in Her Majesty's Dominions, which is empowered by law to grant medical or surgical degrees, whereby such person is authorized to practice physic, surgery or midwifery, or any license from any Board or Corporate Body in Her Majesty's Dominions empowered by law to grant licenses to practice physic, surgery or midwifery.

2. Such examination shall be held by any two medical practitioners registered under this Ordinance, to be appointed from time to time by the Lieutenant-Governor, and such examination shall be upon the following subjects:—Anatomy, Chemistry, Physiology, and Materia Medica, the principles and practice of Medicine, Surgery and Midwifery. each of such Examiners shall be entitled to a fee of ten dollars to be paid by the Applicant, and upon being satisfied that the Applicant is entitled thereto, shall give such Applicant a certificate, signed by both of them, to the effect, that he is entitled to be registered, and has passed the examination prescribed by sub-section three of section One of this Ordinance.

3. The persons referred to in Sub-sections One and Two of Section one shall be entitled to become registered on producing to the Lieutenant-Governor the document conferring or evidencing the qualification or each of the qualifications in respect whereof he seeks to be so registered, and satisfying the said Lieutenant-Governor that he is entitled to be so registered, and paying a fee of five Dollars.

4. The persons referred to in sub-section (3) of section One of this Ordinance, shall be entitled to be registered by the Lieutenant-Governor on producing the certificate mentioned in section Two of this Ordinance and paying a fee of twenty-five dollars.

5. The persons referred to in Sub-section Four of Section one of this Ordinance shall be entitled to be registered by the Lieutenant-Governor on satisfying him, that they possess the qualification, or each of the qualifications, in respect whereof they seek to be registered, and paying a fee of Fifty Dollars.

6. All such fees shall be paid in to the General Revenue Fund of the Territories.

7. The Lieutenant-Governor shall keep or cause to be kept, a book or register, in which shall be entered the names of every person, so satisfying him of his right to be registered under this Ordinance, the date of such registry, and a minute of the degree, diploma, license, or certificate

produced by such person, and shall deliver to such person a certificate in the form or to the effect following, under his hand and the seal of the North-West Territories;

“Certificate to practice physic, surgery and midwifery in the North-West Territories.

No.

“This is to certify that having complied with the Ordinance respecting Medical Practitioners in the North-West Territories, was on the day of A. D. 18 duly registered under said Ordinance, and is entitled to practice physic, surgery and midwifery in said Territories, and to all rights and privileges granted by said Ordinance.

Given under my hand, and the Seal of the North-West Territories, at in the said Territories this day of in the year of our Lord One thousand eight hundred and

.....  
Lieutenant-Governor,  
of the North-West Territories.

“Endorsement.  
Registered this day of 18  
Liber Folio

Clerk of Council

8. The production of such certificate, purporting to be signed by the Lieutenant-Governor shall be *prima facie* evidence that the holder is entitled to the rights and privileges therein mentioned.

9. It shall not be lawful for any person not registered to practise physic, surgery or midwifery in the North-West Territories for hire, gain or hope of reward, and if any person not registered shall for hire, gain or hope of reward, practise, or profess to practise, physic, surgery or midwifery, or advertise to give advice in physic, surgery or midwifery in the Territories, he shall upon a summary conviction thereof before any Justice of the Peace for any and every such offence pay a penalty not exceeding one hundred dollars.

10. Any person not registered, who shall take or use any name, title, addition or description implying, or calculated to lead people to infer that he is registered, or that he is recognized by law as a Physician, Surgeon, Accoucheur, or a Licentiate in Medicine, Surgery or Midwifery shall be liable upon a summary conviction thereof before any Justice of the Peace as aforesaid, to pay any penalty not exceeding one hundred dollars.

11. In any such prosecution and trial, the burden of proof as to registration shall be upon the person charged.

12. All penalties hereby provided shall, when recovered, form part of the general Revenue fund of the Territories.

13. Any registered medical practitioner, who has been convicted of felony in any Court, shall thereby forfeit his right to registration, and the Lieutenant-Governor shall cause the name of such practitioner to be struck off the list: and in case a person known to have been convicted of felony, presents himself for registration, the said Lieutenant-Governor shall have power to refuse such registration.

14. No penalties under this Ordinance shall be incurred before the first day of March one thousand eight hundred and eighty-six.

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No. 12 of 1885.

*An Ordinance Respecting Poisons.*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. It shall be unlawful for any person to put out strychnine or other poison within one mile of any public trail, or within two miles of any dwelling house or camp;

Or in any other place in the Territories, unless he obtains a license from a justice of the peace, as hereinafter provided, and in accordance with the terms of such license.

2. A justice of the peace, when he is satisfied that it is advisable to put out poison for the destruction of wolves or other wild animals, may grant to any person a license to put out such poison, and shall in such license limit the number of places, at which it shall be put out, and the said license shall not extend beyond the limits of the judicial district, as defined in the Civil Justice Ordinance, in which the said justice resides nor for a longer period than six months.

3. The said license, for issuing which any justice of the Peace shall be entitled to charge one dollar, may be in the following form:



"A. B., who resides at \_\_\_\_\_, is hereby permitted to set out strychnine, or other poison within the limits of the Judicial district for the purpose of destroying wolves and other wild animals at \_\_\_\_\_ different places, being at least one mile from any public road, or trail, and two miles from any dwelling place, or camp, for a term not exceeding six months from the date of this license.

Given under my hand at \_\_\_\_\_ this

day of \_\_\_\_\_ A. D. 18 .

(Signed) \_\_\_\_\_, J. P.,

4. Every person convicted of an infraction of any of the provisions of this Ordinance shall be liable to a fine not exceeding one hundred dollars, with costs of prosecution, and in default of payment to be imprisoned for a term not exceeding three months.

5. Prosecutions under this Ordinance may take place in a summary way before a justice of the peace; and in prosecutions upon information whereby conviction is secured and a fine paid or collected, the informer shall be entitled to receive one half of the said fine.

6. Ordinance No. 14 of 1878, intituled "An Ordinance respecting poisons" is hereby repealed.

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No. 13 of 1885.

*An Ordinance to Legalize a Certain By-Law of the  
Municipal Council of the Town of Regina.*

*Passed 18 December, 1885.*

Whereas the Mayor and Council of the town of Regina have by their petition represented that a By-law to raise by way of loan the sum of ten thousand dollars, for the purpose of making certain public improvements in said town of Regina, was on the seventeenth day of November 1884 duly submitted to a vote of the ratepayers of said town of Regina, and upon said vote, a majority of votes having been cast in favor of said By-law, the same was duly passed by the Municipal Council of said town on the twenty-fourth day of November 1884, and intituled "By-law No. 10 of the Corporation of the town of Regina to raise by way of loan the sum of ten thousand dollars;" That the said Mayor and Council have sold a portion of the debentures authorized to be issued thereunder and have contracted for the sale of the remainder thereof, and have proceeded to complete certain of the improvements specified in said by-law

and have incurred liabilities in respect thereof to nearly the full amount of the proceeds arising from the sale of such remaining debentures; That doubts have recently arisen as to the validity of said By-law, and owing to the existence of such doubts the purchaser refuses to complete his contract for the purchase of said debentures.

Wherefore the said Mayor and Council pray that an Ordinance may be passed legalizing the said debentures;

And whereas it is expedient to grant the prayer of said petition;

Therefore be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. The said By-law of the town of Regina intituled "By-law No. 10 of the Corporation of the town of Regina to raise by way of loan the sum of ten thousand dollars," and all the debentures now issued, or that may hereafter be issued under and in pursuance of said By-law are and the same are hereby declared to be legal, valid, and binding upon the said corporation of the Town of Regina, any law, statute or Ordinance to the contrary notwithstanding, and notwithstanding any omission or defect in point of form, or otherwise, in the said by-law, or in the passing thereof, or in the said debentures, or any of them.

2. Notwithstanding anything in said by-law contained, the Municipal Council of the said Town of Regina, shall raise, levy and collect in each year hereafter during the continuance of said by-law upon the rateable property in said Town of Regina a sum sufficient to pay the interest upon said loan, and the sinking fund provided by said By-law.

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No. 14 of 1885.

*An Ordinance to Legalize a Certain By-Law of the Municipality of South Qu'Appelle*

*Passed 18th December, 1885.*

Whereas by a certain by-law duly passed by the said corporation intituled "By-law No. 11."

By-law for levying rates, taxes and impositions for the year 1884:

"It is enacted a by-law of the Municipal Council of the Municipality of South Qu'Appelle, in Council, assembled: That there be rated, taxed, levied and imposed on all the rateable property of the Municipality of South Qu'Appelle, for the current year, the rate of

"four mills in the dollar; that the Clerk complete the collector's roll in accordance with this by-law;"

And whereas a doubt has arisen as to the legality of the said by-law, and the Council of the said corporation have prayed that an Ordinance may be passed legalizing, confirming, and declaring valid the said by-law;

Therefore be it enacted by the Lieutenant Governor of the North-West Territories, in Council, as follows:

1. The by-law of the Council of the Corporation of the Municipality of South Qu'Appelle recited above in the preamble to this Ordinance intituled "By-law No. 11" is, and all proceedings thereunder are hereby legalized, confirmed and declared to be valid.

No. 15 1885.

*An Ordinance to Amend and Consolidate, as Amended,  
Ordinance No. 1 of 1883 intituled "An Ordinance  
Respecting infectious and Contagious Dis-  
eases of Domestic Animals," and Or-  
dinance No. 15 of 1834, intituled  
"An Ordinance to Amend  
Ordinance No. 1 of 1883  
Respecting Infectious  
Diseases of Domes-  
tic Animals*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. The Lieutenant-Governor may, whenever he considers it necessary appoint one or more Veterinary Surgeons, defining in such appointments the district or limits within which each such veterinary surgeon shall exercise the powers by law imposed on him.

2. The owner of any horse or animal affected with glanders or farcy, or the person in whose charge such animal may be, shall, immediately

on ascertaining that the animal is affected, or on being notified thereof by a Veterinary Surgeon appointed as aforesaid, kill such animal, and burn or bury the carcass of the said animal to the satisfaction of the veterinary surgeon aforesaid. And in case the owner or person, in whose charge the affected animal may be, refuses or neglects to carry out the provisions of this Section, the veterinary surgeon may kill and burn or bury the carcass of the animal, at the expense of the said owner or keeper; provided, however, that if the owner of such animal has reason to believe that such animal is not affected with glanders or farcy, he may deliver a notice in writing to that effect to the veterinary surgeon, and the veterinary surgeon shall thereupon place the animal in quarantine, and shall give notice requiring the owner or person in whose charge such animal may be, to be and appear before such Justice of the Peace as may be named in such notice, at such time and at such place as may therein be named, to show cause why the said animal should not be destroyed; and the said Justice of the Peace shall at such time and place, whether such owner or keeper appears or not, hear such evidence as may be submitted by the veterinary surgeon and by the owner or holder of such animal, and thereupon shall, if the evidence, in the opinion of the said justice of the peace, shows the animal to be affected with glanders or farcy, order the veterinary surgeon to destroy such animal, and such owner or keeper neglecting to carry out the provisions of this section, or in any way interfering with a veterinary surgeon in the discharge of the duties imposed by this section shall be liable, on summary conviction before a justice of the peace, to a fine not exceeding one hundred dollars.

3. In cases where destruction of an animal shall be had under the provisions of this Ordinance, and a veterinary surgeon, appointed by the Lieutenant-Governor shall have acted and the fee provided shall not have been otherwise recovered, the fee of ten dollars, and travelling expenses at the rate of ten cents per mile both ways may be paid by the Lieutenant-Governor out of the General Revenue Fund to such veterinary surgeon.

4. It shall be unlawful for the owner or owners or for any person, or persons, having in charge any horse, cattle or domestic animal affected with any contagious disease, to allow said diseased animal or animals to run at large. All animals affected with contagious diseases shall be at once removed by the owner or owners thereof, or the person or persons in charge of the same to some secure inside enclosure, where contact with other animals, by reaching over or through the fence of said enclosure will be impossible; or such diseased animal or animals shall be closely herded six miles away from any farm, or from any other stock running at large, and shall be kept in such enclosure, or herded as herein provided, until they shall die, or are entirely cured of any contagious disease. Every person who is the owner, or part owner, or has in his charge any animals affected with any contagious disease, who shall knowingly neglect, or refuse to remove, or so enclose, or herd away from

farms or stock, such animals affected with any contagious disease as hereinbefore provided, shall be liable for every such offence to a penalty not exceeding one hundred dollars.

5. Upon complaint in writing, under oath, made to any justice of the peace, that any person owns, or has in his possession, either on his own premises, elsewhere, or running at large, any horse, cattle or domestic animal to the best of his knowledge and belief, or according to his information, affected with some infectious or contagious disease dangerous to life, (which complaint may be in the Form "A." to this Ordinance) the justice of the peace may make an order in the first instance, or in his discretion he may issue a summons upon the party complained against, and on return thereof make or refuse the order, ordering a veterinary surgeon, or if such person cannot be obtained, any other person with proper attainments to proceed forthwith and make a thorough examination of the animal alleged to be diseased, and report the result in writing to the justice of the peace with a distinct statement whether or not it is infectious or contagious and dangerous to life; and the said order if made in the first instance, shall contain a summons upon the party complained against, ordering him to appear before two justices of the peace on a day and hour therein named, to show cause why the said animal should not be ordered to be destroyed; and said Order may be in the form "B" to this Ordinance.

Any animal running at large affected with any infectious or contagious disease, and for which no owner, on reasonable enquiry can be found, may be dealt with by a justice under this section as if the same was affected with a disease dangerous to life.

6. It shall be the duty of such person, as the justice of the Peace shall appoint, forthwith to obey the order in the next preceeding section mentioned, and to perform and execute the duties, and make his report in writing as therein mentioned, and for every such examination and report he shall be paid the sum of five dollars, and travelling allowance at the rate of ten cents per mile each way from the General Revenue Fund of the Territories.

7. The order or summons mentioned in the fifth section of this Ordinance, and all other papers in the matter may be served on the parties complained against by delivering to and leaving the same with himself, or in case of his absence from his place or domicile, his wife or some member of his family having arrived at the years of discretion, or some domestic servant, or person in his employ: and the party so served shall obey all orders, summons, and other requisitions: and he shall point out assist, and lend all possible facility to the person appointed under the the fifth section of this Ordinance to make the examination and report aforesaid.

8. Upon the return of the order in the preceeding sections mentioned the two justices of the peace, (one of whom shall be the justice who

issued the order), or the justice who issued the said order, if there is no other justice residing within twenty miles, shall read the report of the person appointed to examine and report under the fifth section of this Ordinance, and take his evidence on oath, and take the evidence of all witnesses produced by both parties, and read all affidavits produced or filed, and thereupon dismiss the complaint with or without costs, or order that the animal in question shall be destroyed with or without costs to be paid by the party complained against, or the justice may in his discretion order the costs to be paid out of the General Revenue Fund of the Territories, and the Lieutenant-Governor shall pay the same upon the order of the said justice; the costs in all cases to be taxed by the justice, and a writ of destruction shall issue accordingly under the hand and seal of the justices or justice, in the form "C" of this Ordinance.

9. Upon the writ of destruction, the officer to whom the same is directed, shall forthwith kill and destroy the animal therein mentioned, and so dispose of the body thereof by burning, or burying the same at least six feet deep, having first thoroughly disinfected the carcass, so that the infection or contagion may not spread; and of the goods and chattels, lands and tenements of the party complained against therein named, he shall make the costs in the said Writ mentioned, and his costs of executing the said Writ, which latter cost shall be five dollars besides mileage, and all reasonable disbursements.

10. Provided always that either of the justices mentioned in the eighth section of this Ordinance may, at any stage of the proceedings, stay the proceedings upon the party complained against paying the costs, in so far as the proceedings have gone, and destroying the diseased animal and burning the body thereof, or burying the same at least six feet deep, having first thoroughly disinfected the carcass, so that the infection or contagion shall not spread.

11. Any person against whom a summons is issued under the fifth section of this Ordinance, who shall neglect or refuse to point out any diseased animal, and to assist and lend all possible facility to the person appointed under the fifth section of this Ordinance in carrying out the duties required of them, shall be liable to a penalty of not more than one hundred dollars.

12. The Lieutenant-Governor may at any time order an inspection of all horses and mules within any area described in such order by any veterinary Surgeon appointed under section one of this Ordinance.

13. The cost of such inspection to be paid out of the General Revenue Fund of the Territories, provided the Lieutenant-Governor is satisfied there are sufficient funds available for the purpose.

14. Ordinance No. 1 of 1883 intituled "An Ordinance respecting infectious and contagious diseases of domestic animals" and Ordinance No.

15 of 1884 intituled "An Ordinance to amend Ordinance No. 1 of 1883 respecting infectious diseases of domestic animals," are hereby repealed.

FORM "A."

(Referred to in Section 5.)

In the matter of a diseased

A..... B.....

Complainant

and

C..... D.....

Complained against.....

I, A..... B..... of farmer, (or as the case may be) make oath and say as follows :

1. I reside at
2. I know C..... D..... who resides at and who is by occupation a farmer, or (as the case may be).
3. The said C..... D..... owns, (or has in his possession, or on his premises, or elsewhere, or running at large, a horse, mare, cow, ox or other domestic animal, naming the animal as the fact is) which to the best of my knowledge and belief, (or according to my information as the case may be,) is affected with some infectious or contagious disease, dangerous to life.

Sworn before me at  
this day of

18

J. P. }

A..... B.....

FORM B.

(Referred to in Section 5.)

ORDER AND SUMMONS.

In the matter of a diseased

A..... B.....

Complainant,

and

C..... D.....

Complained against.

Upon the application of A. B., and upon reading the affidavit of

I do order that G. H. do forthwith make examination of a certain (here describe the animal) of C. D., in (here describe where the animal is,) alleged to be infected with some infectious or contagious disease, and report the result to me in writing, in pursuance of the "Ordinance respecting infectious and contagious diseases of domestic animals"

On the day of at o'clock in the noon ;  
and I do order that the said G. H. do personally appear before me at that time at . And I do further order that C. D. do personally appear before me at on the said day of at o'clock in the noon, to answer the complaint made against him in respect to the said diseased animal.

Dated day of

X Y..  
J. P.

FORM C.

*Referred to in Section 8.*

WRIT OF DESTRUCTION.

NORTH-WEST TERRITORIES, }  
TO WIT:

*VICTORIA* by the Grace of God, of the United Kingdom of Great Britain and Ireland,  
Queen, Defender of the Faith, etc., etc., etc.

TO

GREETING:

I, or we, (as the case may be) command you that you do without any delay, kill and destroy a certain (here describe the animal) at (here describe where the animal is, or supposed to be), owned by, or in the possession of C. D., on his premises or elsewhere, or running at large, wherever the same may be found, and burn, or bury at least six feet deep, having first thoroughly disinfected the carcass, (as the case may be), the body thereof, so that the disease, with which the animal is affected, may not by infection or contagion spread;

And I, or we, (as the case may be) do further command you that of the goods and chattels of the said C. D., liable to seizure under execution for debt, you do levy and make the sum of \_\_\_\_\_ which I or we (as the case may be), have taxed, allowed and adjudged to A. B., the complainant, for his costs and charges in this matter against the said C. D., the party complained against, in pursuance of the Ordinance in such cases made and provided, as also the sum of \_\_\_\_\_ dollars for executing this writ; and what you shall have done in the premises, make appear to me, or us, (as the case may be), immediately after the execution hereof, and have then and there the said money and this writ.

Given under my or our (as the case may be) hand and seal.

(Date.)

E. F.

No. 16 of 1885.

*An Ordinance to amend Ordinance No. ~~24~~<sup>29</sup> of 1884 intituled "An Ordinance to amend and consolidate as amended the several Ordinances respecting Fences.*

*Passed 18th December, 1885.*

Whereas it is expedient to amend the above recited Ordinance;

Be it therefore enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:



1. Section number one of the above recited Ordinance is amended by inserting after the words "Herd District" the words 'or where by-laws have been passed by Municipal Councils under sub-section thirteen of section sixty-six of "The North-West Municipal Ordinance of 1884."'

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**No. 17 of 1885.**

*An Ordinance to amend Ordinance No. 25 of 1884, intituled  
"An Ordinance respecting Ferries."*

*Passed 18th Dec, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. All words in sub-section one of section three of the said Ordinance before the words "for every" are hereby struck out.
  2. Sub-section two of Section three of the said Ordinance is hereby repealed.
- 

**No. 18 of 1885.**

*An Ordinance to repeal Ordinance No. 9 of 1883.*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Ordinance Number Nine of 1883, intituled "An Ordinance to regulate the disposal of found or stolen horses," is hereby repealed.
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**No. 19 of 1885.**

*An Ordinance to amend Ordinance No. 4 of 1883 intituled "An Ordinance respecting Partnerships."*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Section Number Thirteen of Ordinance No. 4 of 1883, intituled "An Ordinance respecting partnerships," is hereby repealed.

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**NO. 20. of 1885.**

*An Ordinance to amend Ordinance No 1 of 1884 intituled "An Ordinance respecting the herding of animals."*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories in Council as follows:

1. Section five of the said Ordinance is hereby amended by inserting after the word "may," where it first occurs, the words "between the first day of May and the fifteenth day of October inclusive in each year;" and also by inserting after the word "keep" the words "and properly feed."

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**NO. 21 of 1885.**

*An Ordinance to amend, and consolidate as amended the several Ordinances respecting prairie and forest fires.*

*Passed 18th December, 1885.*

Be it enacted by the Lieutenaut-Governor of the North-West Territories in Council, as follows:

1. Any person, who kindles or places, or is a party to kindling or placing fire in the open air in any part of the territories, except for camp or domestic purposes, or for clearing land in the months of December, January, February or March, except as hereinafter provided, shall on conviction thereof pay a fine not exceeding two hundred dollars, with costs of prosecution, and in default of payment be imprisoned for a term not exceeding six months.

Provided always that a person may kindle a fire inside of a ploughed brake, not less than ten feet wide.

2. Any person who kindles, or is a party to kindling a fire in the open air for any of the purposes allowed in the next preceding section, and who neglects taking effectual means, while such purpose is being served, or after it has been served, to prevent such fire from running at large, shall, on conviction, be liable to a fine not exceeding one hundred dollars, with costs of prosecution; and in default of payment, be imprisoned for a term not exceeding three months.

3. Nothing in this Ordinance shall bar or prevent the owner of private property from recovering damages from any offender against the first and second section of this Ordinance.

4. Prosecutions under this Ordinance shall be in a summary manner.

5. The Lieutenant-Governor may appoint fire guardians having the power of constable to enforce the provisions of this Ordinance, who, together with all magistrates, shall have the power to call out any male person within five miles of prairie fire, to proceed at once, and help to extinguish said fire, and any person refusing to do so shall be liable to a fine of ten dollars.

6. It shall be the duty of all peace officers, upon view of any infraction of any of the enactments of this Ordinance, forthwith to arrest the offender, and without warrant bring him before a Stipendiary Magistrate or justice of the peace to be dealt with according to law.

7. In prosecutions upon information under this Ordinance, whereby conviction is secured, and a fine paid or collected the informer shall be entitled to receive one half of the said fine.

8. Ordinances No. 4 of 1879, and No. 20 of 1883 are hereby repealed.

## No. 22 of 1885.

*An Ordinance to amend an Ordinance Respecting Dangerous Lunatics.**Passed 18th December, 1885.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. The first section of Ordinance No. 2 of 1879, intituled: "An Ordinance respecting Dangerous Lunatics," is amended, by striking out the words "and has exhibited a purpose of committing some criminal offence."

*Printing license from 1886*

*For Lidl*

*Van Bughout & Partner*

*Jos. Vandoll Senior*

*Robert Dean*

*Louisant Luer*

*Pierre Henri (C. F. Young)*

*Thos. Scott.*

*James. Short.*

*Mrs. Ben Parquette*

*Francis Buche*

*James Greve*

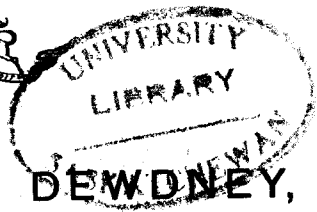
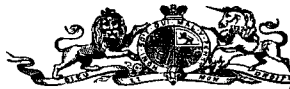
# ORDINANCES

OF THE

## North-West Territories,

PASSED BY THE LIEUTENANT-GOVERNOR  
IN COUNCIL,

*In the Session begun and holden at Regina on the Thirteenth day of October,  
and closed on the Nineteenth day of November, 1886.*



HIS HONOR EDGAR DEWDNEY,  
LIEUTENANT-GOVERNOR.

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REGINA, N.W.T.

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1886.



# CONTENTS.

## ORDINANCES OF 1886.

No.		PAGE
1.	An Ordinance respecting Municipal matters in the Town of Calgary.....	2
2.	“ respecting the Administration of Civil Justice.....	5
3.	“ respecting the Incorporation of Joint Stock Companies by Letters Patent.....	140
4.	“ respecting Juries.....	170
5.	“ respecting the holding of lands in trust for Religious Societies and Congregations.....	173
6.	“ to facilitate the conveyance of real estate by married women.....	178
7.	“ to amend the Municipal Ordinance of 1885.....	180
8.	“ to Incorporate Agricultural Societies in the North-West Territories.....	185
8.	“ to Incorporate Companies for the establishment of Cemeteries....	190
10.	“ to amend the School Ordinance of 1885.....	198
11.	“ respecting Fire Districts.....	214
12.	“ to amend Ordinance No 21 of 1884, respecting the licensing of Billiard and other tables and for the prevention of Gambling.....	218
13.	“ to amend Ordinance No. 21 of 1885, respecting Prairie Fires.....	219

14.	An Ordinance to amend Ordinance No. 12 of 1885, intituled "An Ordinance respect- Poisons." .....	220
15.	" to further amend Ordinance No. 8 of 1883, intituled "An Ordinance for the Protection of Game" ....	221
16.	" to amend Ordinance No. 13 of 1881, intituled "An Ordinance respect- Bulls." .....	222
17.	" to further amend Ordinance No. 29 of 1884, intituled "An Ordinance to amend and consolidate, as amended, the several Ordinances respecting Fences." .....	223
18.	" to repeal Ordinance No. 20 of 1885, and to amend Ordinance No. 1 of 1884, intituled "An Ordinance respecting the Herding of Ani- mals." .....	224
19.	" to Incorporate a General Hospital at Regina.....	225
20.	" to legalize certain By-law of the Corporation of the Municipality of South Qu'Appelle and the De- bentures issued thereunder....	230
21.	" to legalize a certain By-law of the Municipal Council of the Town of Regina.....	222



## CANADA—NORTH-WEST TERRITORIES.



No. 1 of 1886.

### AN ORDINANCE RESPECTING MUNICIPAL MATTERS IN THE TOWN OF CALGARY.

*[Passed 21st October, 1886.]*

Whereas doubt has arisen concerning the personnel of the Mayor and Councillors of the Municipality of the Town of Calgary, for the year 1886, and various persons have claimed and are claiming the positions of Mayor and Councillors of the said Municipality ;

And whereas, by reason of the said rival claims, vexatious delays and litigation have ensued, involving great loss and inconvenience to the property-holders within the limits of the said Town, and it is at present doubtful if a legal Council exists ;

And whereas, during the continuance of the rival claims as aforesaid, various indebtednesses have been incurred by the Boards or alleged Councils composed of the rival claimants ;

And whereas, it is desirable to terminate such a condition of affairs ;

Be it therefore enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows :

1. It is hereby declared that no Council of the Municipality of the Town of Calgary exists, and that any and every alleged election of Mayor and Councillors of the said Municipality, for the year 1886, is void.

2. Immediately, or as soon as conveniently may be after the passing of this Ordinance, the Lieutenant-Governor

4 No. 1 of 1886. *Calgary Municipal.*

shall issue his Order for the election of a Mayor and four Councillors for the said Municipality and appoint a Returning Officer for such election, such Mayor and Councillors, when elected, to hold office until the Thirty-first day of December, A.D. 1887.

3. Such election shall be held in the manner provided for first Municipal Elections under the Municipal Ordinance of 1885, and the provisions of the said Ordinance in respect to first Municipal Elections shall apply, so far as consistent herewith.

4. All persons having claims against the said Municipality, incurred under the authority of either of the said alleged Boards or Councils, shall, on or before the First day of January, A.D. 1887, file the same, in writing, set out with reasonable certainty in detail, with the Clerk of the High Court of Justice in Calgary.

5. The Lieutenant-Governor shall by Commission, appoint some one of the Judges of the High Court of Justice to settle and adjust all and every of such claims so filed with the Clerk as aforesaid.

6. Such amounts as may be awarded by such commissioned Judge, and such only, shall form and be debts due by the Municipality of the Town of Calgary, recoverable as such at law by the persons in whose favor amounts are awarded respectively.

7. The provisions of the North-West Territories Act, 1884, conferring powers upon Stipendiary Magistrates in civil matters shall apply in the hearing, settling and adjusting of such claims.

8. All costs and expenses incurred in and about the holding of such election, and incident thereto, shall form a charge upon and be defrayed by the Municipality of the Town of Calgary.

*all ordi. a. s. passed heretofore  
respecting civil justice are repealed  
No. 2 of 1886. sec 459.*

AN ORDINANCE RESPECTING THE ADMINISTRATION OF CIVIL JUSTICE.

[*Passed 16th November, 1886.*]

NOTE.—The memorandum at the end of sections, wherever to be found, is intended to indicate the source from which the provisions therein expressed have been transcribed or adopted :—

"E." refers to the English Judicature Rules of 1883.

"O." refers to the Ontario Judicature Rules of 1881.

"N.S." refers to the Nova Scotia Judicature Act of 1881.

"C.C.P. Que." refers to the Code of Civil Procedure, Quebec.

"R.S.O." refers to the Revised Statutes of Ontario.

"R.S.M." refers to the Revised Statutes of Manitoba.

"N.W.T." refers to previous Ordinances of the North-West Territories.

Whereas by an Act of the Parliament of Canada, passed in the Forty-ninth year of Her Majesty's reign, intituled "An Act further to Amend the Law respecting the North-West Territories," the Supreme Court of the North-West Territories is constituted and established; and provision is thereby made for the Division of the said Territories into Judicial Districts by proclamation of the Governor in Council, and for the passing of Ordinances by the Lieutenant-Governor of the said Territories in Council, in relation to the administration of justice in the said Territories and the constitution, maintenance and organization of the said Court, including procedure therein in civil matters;

Therefore be it enacted by the Lieutenant-Governor of the North-West Territories in Council, as follows:

JURISDICTION.

1. From and after the commencement of this Ordinance, the several jurisdictions vested in the High Court of Justice, shall cease to be exercised, except in the name of the Supreme Court, as provided by this Ordinance, save as otherwise in this Ordinance provided. (O. 10.)

2. In all causes, matters and proceedings whatsoever,

which shall have been fully heard, and in which judgment shall not have been given, or having been given shall not have been signed, drawn up, passed, entered or otherwise perfected, such judgment, decree, rule or order, may be given or made, signed, drawn up, passed, entered or perfected respectively, after this Ordinance takes effect in the name of the same court, and by the same Judge and officers, and generally in the same manner in all respects as if this Ordinance had not passed; and the same shall take effect to all intents and purposes as if the same had been duly perfected before the commencement of this Ordinance. (O. 11.)

3. Every judgment, decree, rule or order, of the High Court of Justice which shall have been duly perfected at any time before the commencement of this Ordinance, may be executed and enforced, and, if necessary, amended or discharged by the Supreme Court, in the same manner as if it had been a judgment decree, rule, or order of the said Supreme Court; and all causes, matters and proceedings whatsoever, which shall be pending in any of the courts whose jurisdiction is so vested as aforesaid, at the commencement of this Ordinance, shall be continued and concluded in and before the said Supreme Court, and the said Supreme Court shall have jurisdiction for so continuing and concluding the same. (O. 11, 2.)

4. The said Supreme Court shall have the same jurisdiction in relation to all such causes, matters and proceedings, as if the same had been commenced in the Supreme Court aforesaid, and continued therein down to the time at which this Ordinance goes into effect; and so far as relates to the form and manner of proceedings, such causes, matters and proceedings, or any of them, shall be continued and concluded in and before the said Supreme Court, as shall be directed by this Ordinance or by the Court. (O. 11, 3.)

5. The jurisdiction of the Supreme Court of the North-West Territories shall be exercised, so far as regards procedure and practice, in the manner provided by this Ordinance, and where no special provision is contained in this Ordinance it shall be exercised as nearly as may be as in the High Court of Justice in England.

RULES OF LAW.

6. In every civil cause or matter commenced in the Supreme Court, law and equity shall be administered by such court according to the following rules :

(1.) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground, against any deed, instrument or contract, or against any right, title or claim whatsoever, asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, the court shall give to such plaintiff or petitioner such relief as would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose. (O. 16, 2.)

(2.) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim, asserted by any plaintiff or petitioner in such cause or matter, the said Supreme Court and every Judge thereof shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect by way of defence against the claim of such plaintiff or petitioner as the High Court of Justice in England would give if the same or the like matters had been relied on by way

of defence in any suit or proceeding instituted in that court for the same or the like purpose. (O. 16, 3.)

- (3.) The said Supreme Court and every Judge thereof shall also have power to grant to any defendant in respect to any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner, as such defendant shall have properly claimed by his pleading; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to this Ordinance, or any order of the court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose, and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant. (O. 16, 4.)

7. Whereas it is expedient to declare the law to be hereafter administered in the North-West Territories as to the matters next hereinafter mentioned, be it enacted: (O. 17.)

- (1) No claim of a *cestui que trust* against his trustee, for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. (O. 17, 1.)
- (2) An estate for life, without impeachment of waste,

shall not confer, or be deemed to have conferred, upon the tenant for life, any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate. (O. 17, 2.)

- (3) There shall not, after the commencement of this Ordinance, be any merger by operation of law only, of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity. (O. 17, 3.)
- (4) A mortgagor, entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession, or to enter into the receipts of the rents and profits thereof, shall have been given by the mortgagee, may sue for such possession, or sue or distrain for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person, and in that case he may sue or distrain jointly with such other person. (O. 17, 4.)
- (5) In case of an assignment of a debt or other chose in action, if the debtor, trustee, or other person liable in respect of such debt or chose in action shall have had notice that such assignment is disputed by the assignor, or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto, to interplead concerning the same. (O. 17, 5.)
- 6) Stipulations in contracts as to time or otherwise

which would not heretofore have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in the Territories the same construction and effect as they would in Equity. (O. 17, 6.)

(7) A mandamus or an injunction may be granted, or a receiver appointed by an Interlocutory order of the Court in all cases, at any time upon such terms and conditions or unconditionally, as to the Court or a Judge may seem just. (O. 17, 7.)

(8) Generally, in all matters in which there is any conflict or variance between the Rules of Equity and Common Law with reference to the same matter, the rules of Equity shall prevail. (O. 17, 8.)

8. The said Court and every Judge thereof shall recognize and take notice of all equitable estates, titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter in the same manner in which the High Court of Justice in England would have recognized and taken notice of the same in any suit or proceeding, duly instituted therein. (O. 16, 5.)

9. Every Clerk and every Sheriff, before entering upon the duties of their respective offices shall file in the office of the Registrar for deeds of lands nearest to the office of such Clerk and Sheriff respectively, a copy certified as such by the Secretary of State for Canada, of the security required by and given under section twenty-two of the Act of the Parliament of Canada, passed in the forty-ninth year of Her Majesty's reign, chaptered Twenty-five.

10. For receiving such certified copy, and filing the same, of record, the Registrar shall be entitled to a fee of one dollar, and for every copy issued and certified by him as afore-



said, one dollar and for exhibiting the said security to any applicant, twenty-five cents.

11. Such security shall be available to, and may be sued upon by any person suffering damages by the default, breach of duty or misconduct of such Clerk and Sheriff respectively.

12. A copy of such security, purporting to be such, certified by the Registrar, under his seal of office, shall be received in all courts as *prima facie* evidence of the due execution and contents thereof, without further proof.

13. Every such Clerk and every such Sheriff, either before or at the first sitting of the Court of the Judicial District to which they respectively have been appointed, shall, before the Judge, take the oath of office in the Form in the Appendix to this Ordinance.

#### CLERK'S DUTIES.

14. The duties of the Clerk shall be:—

- (1) To attend at his office and keep the same open between the hours of ten in the forenoon and four in the afternoon, on all days except Sundays and statutory holidays, and except on Saturdays, when the same may be closed at one o'clock in the afternoon ;
- (2) To receive all complaints and other papers required by suitors to be filed in court ; to issue all writs of summons, warrants, precepts, writs of execution, and other documents rendered necessary or requisite for the effectual disposition of such matters ; tax costs, enter judgments, and record all judgments and orders pronounced, given and made ; keep an account of all fines, fees, and monies payable or paid into court ; entering all such amounts in proper approved books, in which shall be entered regularly, under separate headings, all

the proceedings taken in any suit, all monies received and paid out, and the persons to whom and by whom the same have been paid, which books shall be accessible at all times to suitors and the public: and to do and perform all such other acts and duties as may be necessary for the due administration of civil justice in the Territories;

(3) To make a return, on the first day of the months of January and July in each year, verified on oath before the Judge, to the Lieutenant-Governor, showing the emoluments of his office during the six months next preceding.

(4) All books, papers, documents and moneys, in the possession of the Clerk by virtue of or appertaining to his office, shall, upon his resignation, removal, or death, immediately become the property of such person as the Judge usually exercising jurisdiction in the district, shall appoint as Clerk, pending the appointment of a new Clerk of the Court. [R. S.O. page 490.]

#### PROCEDURE.

15. Every action in the Court shall be commenced by a Writ of Summons, which Writ, except in the cases in which a different form is hereinafter provided, shall follow the Form in the Appendix at the end of this Ordinance, and be issued by the Clerk, on receiving from any person (who shall thereafter be styled the plaintiff) or his advocate, a plain statement in writing in duplicate, of the complaint or cause of action, or particulars of the claim in the form of an account, and in case of a trespass or wrong complained of, with the amount of damages claimed, against any other person (thereafter to be styled the defendant), together with the places of residence, tem-

porary or otherwise, of both parties, and with the address of the plaintiff's advocate, if an advocate be employed.

16. The statement of plaintiff's claim or demand in duplicate as aforesaid shall be filed by the Clerk, one of such duplicates shall be attached to the original summons and a copy thereof attached to every copy of the summons for service.

17. Every Writ of Summons, and also (unless otherwise provided) every other Writ shall bear the date of the day on which the same is issued.

- (1) When the Defendant resides in the Judicial District whence the Writ of Summons issued, the Writ shall be returned in ten days from the service upon the defendant, and when the defendant resides in a Judicial District, other than that in which the writ issued, the writ shall be returned in twenty days from the service thereof, the day of service to be exclusive in all cases.

18. The advocate of a plaintiff, suing by an advocate, shall indorse on the writ the address of the plaintiff, and also his own name or firm and place of business, and also if his place of business shall be more than three miles from the Clerk's office, whence the writ issues, another proper place to be called his "address for service," where statements of defence, notices, summonses, orders, and other documents, proceedings and written communications in the suit may be left for him; and when a plaintiff sues in person he shall indorse on the writ his occupation and place of residence, and if his residence be more than three miles from the Clerk's office as aforesaid, another proper place within such three miles, to be called his "address for service," where statements of defence, notices, summonses, orders and other documents, proceedings and written communications in the suit may

be left for him. In case of the omission to supply an address for service as aforesaid, all papers requiring service may be posted in the Clerk's office, and in such case be deemed good service. (E. 19 and 20.)

19. The plaintiff in any action may, at the time of or at any time within twelve months after the issuing of the original writ of summons, issue one or more concurrent writ or writs. Each concurrent writ to show the date of the original writ, and be marked with the word "concurrent" in the margin, and the date of issuing the concurrent writ; provided always that such concurrent writ or writs shall only be in force for the period during which the original writ in such action shall be in force.

20. No original writ of summons shall be in force for more than twelve months from the day of the date thereof, including the day of such date; but if any defendant therein named shall not have been served therewith, the plaintiff may, before the expiration of the twelve months, apply to the Judge for leave to renew the writ, and the Judge, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reason, may order that the original or concurrent writ of summons (or both) be renewed for six months from the date of such renewal, inclusive, and so from time to time during the currency of the renewed writ; and the writ shall in such case be renewed by being marked with the day, month and year of such renewal, and be so marked by the clerk, upon the plaintiff or his advocate filing the Judge's order and presenting to him the said writ; and a writ of summons so renewed shall remain in force and be available, to prevent the operation of any statute whereby the time for the commencement of the action may be limited, and for all other purposes, from the date of the issuing of the original writ of summons. (E. 45.)

21. The production of a writ of summons, purporting to have been renewed in manner aforesaid, shall be sufficient evidence of the writ having been so renewed and of the commencement of the action as of the first date of such renewed writ for all purposes. (E. 46.)

22. Where a writ, of which the production is necessary, has been lost, the Judge, upon being satisfied of the loss and of the correctness of a copy thereof, may order that such copy shall be sealed and used in lieu of the original writ. (E. 47.)

23. Every advocate whose name is signed to or be indorsed on any writ of summons shall, on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto, declare forthwith whether such writ has been issued by him or with his authority or privity; and on declaration by such advocate that the writ was not issued by him or with his authority or privity, all proceedings upon the same shall be stayed, and no further proceedings shall be taken thereupon without leave of the Judge.

24. A party suing or defending by an advocate may change his Advocate in any cause or matter without an order for that purpose, upon notice of such change being filed in the Clerk's office in which the cause or matter is proceeding. But until such notice is filed, and a copy thereof served, the former Advocate shall be considered the Advocate of the party, until the final conclusion of the cause or matter. [E. 44.]

25. Service of a Writ of Summons may be made by the Sheriff, his deputy or bailiff, or by any literate person other than a plaintiff, but except by order of a Judge, no fees for service shall, in such latter case, be allowed.

26. Service of Summons shall be effected by copy as follows:

- (1) The summons to appear may be served anywhere in the North-West Territories; and the service shall be personal, except in matters of account when the amount claimed does not exceed fifty dollars, in which case service may be on the defendant, his wife, or servant, or some grown up and reasonable person being an inmate of the defendant's dwelling house or usual place of abode or place of trading:
- (2) In case any defendant is out of the North-West Territories, but has an agent, managing clerk, or other representative resident and carrying on his business within the same, service of the summons to appear may be made on such agent, managing clerk, or other representative, who, for the purpose of being served with the summons or any other proceedings in the action requiring service on a defendant, shall be deemed the agent of such defendant;
- (3) Every summons issued against a corporation, and all other proceedings in an action against a corporation, may be served on the president or other head officer, or on the cashier, manager, treasurer, or secretary, clerk, agent or other representative, by whatsoever name or title he be known, of such corporation, or of any branch or agency thereof in the North-West Territories; and every person who within the said Territories transacts or carries on any business of or for any corporation whose chief place of business is without the said Territories, shall, for the purpose of being served with a summons to appear, or any other proceedings as aforesaid, in an action against or at the suit of such corporation, be deemed the agent thereof;
- (4) Upon a Judge being satisfied by affidavit that there is

a cause of action which arose in the North-West Territories, or in respect of a breach of contract made therein, and that the plaintiff is, from any cause, unable to effect prompt personal service, the Judge may make such order for substituted or other service, by advertisement or otherwise, as may be just.

(5) Where persons are sued as Partners in the name of their firm, the writ shall be served either upon any one or more of the partners, or, at the principal place within the Territories of the business of the partnership, upon any person, having at the time of service the control or management of the partnership business there, and such service shall be deemed good service upon the firm. [E. 53.]

(6) Where one person carrying on business in the name of a firm, apparently consisting of more than one person, shall be sued in the firm name, the writ may be served at the principal place, within the Territories, of the business so carried on upon any person having at the time of service the control or management of the business there, and such service, if sufficient in other respects, shall be deemed good service on the person so sued. [E. 54.]

(7) Service of a writ of summons in an action to recover possession of land may, in case of vacant possession, when it cannot be otherwise effected, by leave of the Judge, be made by posting a copy of the writ and statement of claim, upon the door of the dwelling-house or other conspicuous part of the premises. [E. 56.]

(8.) When husband and wife are both defendants to the action, they shall both be served, unless the Judge shall otherwise order.

(9.) When an infant is a defendant to the action, service on his father or guardian, or if none, then upon the person with whom the infant resides or under whose care he is, shall, unless the judge otherwise orders, be deemed good service on the infant; provided that the judge may order that service made or to be made on the infant shall be deemed good service.

(10.) When a lunatic, or person of unsound mind, is a defendant to the action, service shall be made as the Judge may order.

27. Service, out of the North-West Territories, of a Writ of Summons may be allowed by a Judge whenever.

(1) The whole subject-matter of the action is land situate within the judicial district in which the action is to be brought (with or without rents and profits); or

(2) Any act, deed, will, contract or liability affecting land or hereditaments situate within the judicial district the action is to be commenced in or is sought to be construed, rectified, set aside or enforced in the action; or

(3) Any relief is sought against any person domiciled or ordinarily resident within the jurisdiction; or

(4) The action is for the administration of the estate of any deceased person who at the time of his death was domiciled within the judicial district, or for the execution (as to property within such district) of the trusts of any written instrument, of which the person to be served is a trustee, which ought to be executed according to the laws of the North-West Territories; or

(5) The action is for the recovery of any debt con-



tracted within the judicial district, or is founded on any breach or alleged breach within the judicial district, of any contract wherever made, which, according to the terms thereof ought to be performed within such judicial district; or

- (6) An injunction is sought as to anything to be done within the jurisdiction, or any nuisance within the jurisdiction is sought to be prevented or removed, whether damages are or are not also sought in respect thereof; or
- (7) Any person out of the jurisdiction is a necessary and proper party to an action properly brought against some other person duly served within the jurisdiction. [E. 64].

28. Every application for leave to serve such writ on a defendant out of the jurisdiction shall be supported by affidavit, stating that in the belief of the deponent the plaintiff has a good cause of action, and showing in what place or country such defendant is or probably may be found, and the grounds on which the application is made; but no such leave shall be granted unless it shall be made sufficiently to appear to the Judge that the case is a proper one for service out of the Territories aforesaid. [E. 67.]

29. Any order giving leave to effect such service shall limit a time after such service, within which such defendant is to enter an appearance, such time to depend on the place or country where or within which the writ is to be served. [E. 68.]

#### PARTIES.

30. All persons, in whom the right to any relief claimed is alleged to exist, may be joined as plaintiffs, whether

jointly, severally, or in the alternative; and judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who shall not be found entitled to relief, unless the Judge in disposing of the costs shall otherwise direct. (E. 123.)

31. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff, the Judge may, if satisfied that it has been so commenced through a *bona-fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as may be just. (E. 124.)

32. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities without any amendment. (E. 126.)

33. It shall not be necessary for every defendant to be interested as to all the relief prayed for, or as to every cause of action included in any proceeding against him; but the Judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest. (E. 127.)

34. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes. (E. 128.)

35. Where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may, by leave of the Judge, join two or more defendants, to the intent that the question as to which, if any, of the defendants is liable and to what extent, may be determined as between all parties. (E. 129.)

36. Trustees, executors and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the persons beneficially interested in the trust or estate and shall be considered as representing such persons; but the Judge may, at any stage of the proceedings, order any of such persons to be made parties either in addition to or in lieu of the previously existing parties. (E. 130.)

37. Where there are numerous persons having the same interest in one cause or matter, one or more of such persons may sue or be sued, or may be authorized by the Judge to defend in such cause or matter, on behalf or for the benefit of all persons so interested. (E. 131.)

38. In cases where the statement of claim is for an account or involves the taking of an account, if the defendant either fails to appear, or does not after appearance satisfy the Judge that there is some preliminary question to be tried, the plaintiff may obtain an order directing the taking of proper accounts; and if the plaintiff sues or the defendant is sued in a representative capacity, the statement of claim shall show in what capacity the plaintiff or defendant sues or is sued; and in cases in which the plaintiff in the first instance desires to have an account taken the statement of claim shall request the same. (E. 121.)

39. No cause or matter shall be defeated by reason of the mis-joinder or non-joinder of parties, and the Judge may in

every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before him. The Judge may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear just, order that the names of any parties improperly joined, whether as plaintiffs or defendants, be struck out, and that the names of any parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence in the cause may be necessary in order to enable the Judge effectually and completely to adjudicate upon and settle all the questions involved in the cause or matter, be added. Every party whose name is so added as defendant shall be served with a summons or notice in such manner as the Judge may order, and the proceedings as against such party shall be deemed to have begun only on the service of such summons or notice. (E. 133.)

40. Any application to add or strike out or substitute a plaintiff or defendant may be made to the Judge at any time before trial, on motion supported by affidavit, or at the trial of the action, in a summary manner. (E. 134.)

#### PARTNERS.

41. Any two or more persons claiming or being liable as co-partners may sue or be sued in the name of the respective firms, if any, of which such persons were co-partners at the time of the accruing of the cause of action; and on application of any party to an action the Judge may order a statement of the names of the persons who were, at the time of the accruing of the cause of action, co-partners in any such firm, to be furnished in such manner, and verified on oath or otherwise, as may be thought proper. Provided that, in the case of a co-partnership which has been dissolved, to the knowledge of the plaintiff, before the commencement of the action, the writ of summons shall be served upon every person sought to be made liable. (E. 136.)

42. Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of such firm. (E. 137.)

PERSONS UNDER DISABILITY.

43. Infants, lunatics, and persons of unsound mind, may sue as plaintiffs by Guardians appointed by the Judge on application made to him for the purpose, and may defend any action in like manner. (E. 138.)

THIRD PARTY PROCEDURE.

44. Where a defendant is, or claims to be, entitled to contribution or indemnity, or any other remedy or relief, over against any other person, or where from any cause it appears to the Judge that a question should be determined, not only as between the plaintiff and defendant, but as between the plaintiff, defendant and any other person, or between any or either of them, the Judge may, on notice being given to such last-mentioned person, make such order as may be proper for having the question so determined, and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action. (E. 170.)

45. Where under the next preceding section, it is made to appear to the Judge at any time before or at the trial, that a question in the action should be determined, not only as between the plaintiff and the defendant but as between the plaintiff and the defendant and any other person, or between any or either of them, the Judge, before or at the time of making the order for having such question determined, may direct such notice to be given by such person, in such manner, at such time and to such person, as may be thought proper; and if made at the trial, the Judge may postpone the trial on such terms as he may think fit. (O. 109.)

46. A plaintiff is not to be unnecessarily delayed in recovering his claim by reason of questions between defendants in which the plaintiff is not concerned; and the Judge is to give such direction as may be necessary to prevent such delay of the plaintiff, where this can be done, on terms or otherwise, without injustice to the defendants. (O. 112.)

CHANGE OF PARTIES BY DEATH.

47. A cause or matter shall not become abated by reason of the marriage, death, or insolvency of any of the parties, if the cause of action survive or continue, and shall not become defective by the assignment, creation or devolution of any estate or title *pendente lite*; and, whether the cause of action survives or not, there shall be no abatement by reason of the death of either party between the verdict or finding of the issues of fact and the judgment; but judgment may in such case be entered, notwithstanding the death. (E. 178.)

48. In case of the marriage, death or assignment, or devolution of estate by operation of law, of any party to a cause or matter, the Judge may, if it be deemed necessary for the complete settlement of all the questions involved, order that the husband, personal representative, trustee, or other successor in interest, if any, of such party be made a party, in such manner and on such terms as the Judge shall think just and make such order for the disposal of the cause or matter as may be just. (E. 179.)

49. Where by reason of marriage, death or assignment, or any other event occurring after the commencement of a cause or matter, and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the cause

or matter, it becomes necessary or desirable that any person not already a party should be made a party, or that any person already a party should be made a party in another capacity, the Judge may order that the proceedings shall be carried on between the continuing parties, and such new party or parties, in such manner and on such terms as may be thought proper. (E. 181.)

50. When the plaintiff or defendant in a cause or matter dies, and the cause of action survives, but the person entitled to proceed fails to proceed, on application of the defendant (or the person against whom the cause or matter may be continued), the Judge may order the plaintiff (or the person entitled to proceed) to proceed within a given period; and in default of such proceeding, judgment may be entered for the defendant, or, as the case may be, for the person against whom the cause or matter might have been continued. (E. 185.)

#### JOINDER OF CAUSES OF ACTION.

51. A plaintiff may unite in the same action several causes of action; but if it appears to the Judge that any such causes of action cannot be conveniently tried or disposed of together, he may order separate trials of any such causes of action to be had or may make such other order as may be necessary or expedient for the separate disposal thereof, or may order any such causes of action to be excluded, and consequential amendments to be made. (E. 188 & 196.)

#### PLEADING GENERALLY.

52. At any time before the return of the Writ of Summons, or afterwards, and before the Plaintiff has taken any further step in the cause, if the defendant, or if there be more than one defendant in the action, a defendant desires to contest the plaintiff's claim and defend the action, he

shall, by himself or his advocate, enter an appearance in the office of the Clerk whence the writ of summons issued, and at the same time or such further time as may by order of the Judge be allowed for the purpose, file in the Clerk's office a plain statement in writing showing the ground upon which the plaintiff's claim is contested either wholly or in part, and serve on the plaintiff or his advocate or at the address supplied by the plaintiff when obtaining the writ of summons, a copy of such statement of defence.

53. Upon or with every appearance, when entered, a memorandum, in writing, shall be endorsed or attached giving the defendant's address or the address of his advocate, if he defends by advocate; and, if the defendant or his advocate resides over three miles from the Clerk's office, naming an address within three miles of the Clerk's office, where documents in the suit requiring service upon him may be left, such place to be known and designated as his "address for service." [E. 80.]

54. If such address be not supplied, papers requiring service upon a defendant appearing may be posted up in the Clerk's office, and such posting shall be deemed "good service." But if an address be supplied and such address be illusory or fictitious, the Judge, on the application of the plaintiff, may by order, direct the manner in which such papers shall be served. [E. 82.]

55. A defendant before appearing shall be at liberty to apply to the Judge on notice to the plaintiff or his advocate or at his "address for service" lodged with the Clerk to set aside the service of the writ upon him, or to discharge the order for substitutional service. (E. 100.)

56. Any person not named as a defendant in a writ of summons in an action for the recovery of the possession of



land, may, by leave of the Judge, appear and defend, on filing an affidavit, showing that he is in possession of the land either by himself or by his tenant. [E. 95.]

57. Any person appearing to defend an action for the recovery of the possession of land as landlord, in respect of property whereof he is in possession only by his tenant, shall state in his appearance that he appears as landlord. [E. 96.]

58. Where a person not named as defendant in any writ of summons for the recovery of the possession of land has obtained leave of the Judge to appear and defend, he shall comply with the provisions of this Ordinance in respect of defendants appearing and defending, and in all subsequent proceedings be named as a party defendant. [E. 97.]

59. Any person appearing to a writ of summons for the recovery of the possession of land, shall be at liberty to limit his defence to a part only of the property mentioned in the writ, describing that part with reasonable certainty in his appearance, and an appearance where the defence is not limited, as above mentioned shall be deemed an appearance to defend for the whole. [E. 98.]

60. Where in an action there are more than one defendant, and one or more of such defendants have appeared while one or other of the defendants have not, the Judge, on application of the plaintiff, may either order the striking out of the defendant or defendants who has or have appeared on payment of costs or otherwise as may be considered just, and allowing the plaintiff to proceed with his action against the defendant or defendants who has or have not appeared, or may order the action to stand as against the non-appearing defendant or defendants while or until the issues raised between the plaintiff and defendant or defendants who has or have appeared be determined; or the

Judge may order that the plaintiff be allowed to enter final judgment against the defendants who have not appeared, with or without proof of his claim, as may be considered proper, and to issue execution on such judgment without prejudice to the right of the plaintiff to proceed with the action against those defendants who have appeared. (E. 104 in part.)

61. When any defendant fails to appear to a writ of summons, and the plaintiff is desirous of proceeding upon default of appearance, he shall, before taking such proceeding upon default, file the original writ with an affidavit of service or of compliance with any order for substitutional service, as the case may be. [E. 102.]

62. Where the plaintiff's claim is for a debt or liquidated demand and the defendant fails, or all the defendants, if more than one, fail, to appear thereto, the plaintiff may after the time limited for appearance has elapsed, enter final judgment for any sum not exceeding the sum claimed in the action, together with legal interest and costs of suit. [E. 103.]

63. Where the plaintiff's claim is for detention of goods and pecuniary damages, or either of them, and the defendant fails, or all the defendants if more than one, fail to appear, on application of the plaintiff, the Judge may order that the value or amount of damages, or either of them, shall be ascertained in any way he may direct, and judgment entered thereupon with costs of suit. [E. 105]

64. When the plaintiff's claim is, as in the last preceding section mentioned, and there are several defendants, of whom one or more appear to the writ, and another or others of them fail to appear, on application of the plaintiff, the Judge may direct that the value of the goods and the damages, or either of them, as the case may be, may be assessed, as against the defendant or defendants failing to appear, at the same time

as that of the trial of the action or issue therein against the other defendant or defendants. [E. 106 in part.]

65. When the plaintiff's claim is for detention of goods and pecuniary damages, or either of them, and also for a liquidated demand, and any defendant fails to appear to the writ, the plaintiff may enter final judgment for the debt or liquidated demand, interest and costs against the defendant or defendants failing to appear, and proceed as mentioned in such of the preceding sections as may be applicable. [E. 107.]

66. In case no appearance shall be entered in an action for the recovery of land, within the time limited for appearance, or if an appearance be entered but the defence be limited to part only, the plaintiff shall be at liberty to enter a judgment that the person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply, with or without costs, as the Judge may order. [E. 108].

67. When the plaintiff's statement of claim is for mesne profits, arrears of rent, or damages for breach of contract and also for the recovery of land, he may enter judgment as in the last preceding section mentioned, for the land; and, may proceed as in the other preceding sections mentioned, as to such other claim. [E. 109.]

68. Any order made by the Judge under the two last preceding sections and any judgment entered pursuant to such order may be set aside or varied by the Judge or the court upon such terms as may be just. (E. 110.)

69. Where the action is in respect of a mortgage, and the plaintiff claims foreclosure or sale or redemption, or where the action is for the administration of an estate or partition, the plaintiff, if the defendant does not appear,

shall be entitled to such a judgment upon such evidence as the Judge may order. (N. S. 11 & 12.)

70. Any judgment entered upon default of appearance may be set aside or varied by the court or Judge, upon such terms as may be just.

71. Where the action is brought to recover a debt or a liquidated demand, and the defendant or one or more of the defendants, if there are several defendants, has appeared, the plaintiff, or one of the plaintiffs if more than one, on affidavit of himself or by any other person who can swear positively to the facts, verifying the cause of action and the amount claimed (if any) and stating that, in his belief, there is no defence to the action, apply to the Judge to strike out the appearance so entered and for leave to enter final judgment for the amount of the claim or the amount so verified as due the plaintiff and costs; and the Judge may thereupon, unless the defendant by affidavit or otherwise shall satisfy him that he has a good defence to the action on the merits or disclose such facts as may be deemed sufficient to entitle him to defend, make an order striking out the appearance and defence so entered and filed, and directing the entry of judgment accordingly. (E. 115 in part.)

72. The application by the plaintiff under the last preceding section shall be by summons of the Judge, returnable not less than four clear days after service thereof, accompanied by a copy of the affidavit and exhibits referred to therein. (E. 116.)

73. The defendant may show cause against such application by affidavits of himself or some one who can swear positively to the facts, or by offering to bring into court the amount claimed in the action. If by affidavit, such affidavit shall state whether the defence alleged goes to the whole or to part only, and if so, what part of the plaintiff's claim, and

the Judge may, if he think fit, order the defendant or whoever makes the affidavit on his behalf, or in the case of a corporation any officer thereof to attend and be examined on oath and to produce any letters, books or documents, or copies of or extracts therefrom. (E. 117).

74. If it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim, or that any part of the plaintiff's claim is admitted, the plaintiff may have judgment forthwith for such part of his claim as the defence does not apply to or is admitted, subject to such terms (if any) as to suspending execution or otherwise as the Judge may order, and the defendant may be allowed to defend as to the residue of the plaintiff's claim. (E. 118.)

75. If it appears to the Judge that any defendant has a good defence or ought to be permitted to defend the action, and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend and the plaintiff shall be entitled to have final judgment against the latter, and have execution thereon without prejudice to his right to proceed with his action against the former. (E. 119.)

76. Leave to defend may be given unconditionally or subject to such terms as to giving security or time and mode of trial or otherwise as the Judge may think fit. (E. 120.)

77. Every statement of claim or defence shall contain and contain only, a statement in a summary form of the material facts on which the party relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved, and shall, when necessary, be divided into paragraphs, numbered consecutively. Dates, sums and numbers shall be expressed in figures, and not in words. (E, 200.)

78. A defendant in an action may set-off, or set-up, by way of counter-claim, against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a cross-action, so as to enable the Judge to pronounce a final judgment in the same action, both on the original and the cross claim. But the Judge may, on application of the plaintiff before trial, if in his opinion such set-off or counter-claim cannot be conveniently disposed of in the pending action, or ought not to be allowed, refuse permission to the defendant to avail himself thereof; and, in any case in which the defendant sets up a counter-claim, the action of the plaintiff is stayed, discontinued, or dismissed, the counter-claim may nevertheless be proceeded with (E. 199 and 249).

79. Where a counter-claim is pleaded, a reply thereto shall be subject to the rules applicable to statements of defence (E. 279).

80. A further and better statement of the nature of the claim or defence, or written proceeding requiring particulars, may in all cases be ordered, upon such terms as may be just; but the order therefor shall not, *per se*, operate as a stay of proceedings or give any extension of time (E. 203 and 204).

81. Nothing in this Ordinance shall affect the right of any defendant to plead not guilty by statute; but if the defendant so plead, he shall not plead any other defence to the same cause of action without the leave of the Judge, and every plea of not guilty by statute shall have the same effect as a plea of not guilty by statute has heretofore had. (E. 208).

82. Every allegation of fact in any pleading, not being a

petition or summons, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the opposing party, shall be taken to be admitted, except as against an infant, lunatic, or person of unsound mind, not so found judicially (E. 209).

83. Any condition precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleading by the plaintiff or defendant (as the case may be); and subject thereto an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleading (E. 210).

84. The defendant or plaintiff (as the case may be) must raise by his pleading all matters which show the action or counter-claim not to be maintainable, or that the transaction is either void or voidable in point of law, and all such grounds of defence or reply, as the case may be, as if not raised would be likely to take the opposite party by surprise, or would raise issues of fact not arising out of the preceding pleadings. (E. 211.)

85. No pleading, not being a petition or summons, shall, except by way of amendment, raise any new ground of claim, or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same. (E. 212).

86. It shall not be sufficient for a defendant in his statement of defence to deny generally the grounds alleged by the plaintiff's statement of claim, or for the plaintiff in his reply to deny generally the grounds alleged in a defence by way of counter claim, but each party must deal specifically with each allegation of fact of which he does not admit the truth, except damages. (E. 213.)

87. When a party in a pleading denies an allegation of fact in the previous pleading of the opposite party, he must not do so evasively, but answer the point of substance. Thus, if it be alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation be made with divers circumstances, it shall not be sufficient to deny it along with those circumstances. (E. 215.)

88. When a contract, promise, or agreement is alleged in any pleading, a bare denial of the same by the opposite party shall be construed only as a denial of fact of the express contract, promise, or agreement alleged or of the matters of fact from which the same may be implied by law, and not as a denial of the legality or sufficiency in law of such contract, promise, or agreement, whether with reference to the statute of frauds or otherwise. (E. 216.)

89. Whenever the contents of any documents are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the documents or any part thereof are material (E. 217.)

90. Whenever it is material to allege malice, fraudulent intention, knowledge, or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred. (E. 218.)

91. Whenever it is material to allege notice to any person of any fact, matter, or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice, or the circumstances from which such notice is to be inferred, be material (E. 219.)



92. Whenever any contract, or any relation between any persons is to be implied from a series of letters or conversations, or otherwise from a number of circumstances, it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations, or circumstances, without setting them out in detail; and if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances, he may state the same in the alternative (E. 220.)

93. Neither party need, in any pleading, allege any matter of fact which the law presumes in his favor, or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied (E. 221.)

94. No technical objection shall be raised to any pleading on the ground of any alleged want of form. (E. 222.)

95. The Judge may at any stage of the proceedings order to be struck out or amended any matter in any statement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the action with or without costs to be fixed by him and paid by the party so offending. (E. 223.)

96. In cases of any action founded upon a bill of exchange or other negotiable instrument, the Judge may order that the loss of such instrument shall not be set up; provided such indemnity as he approves of is given against the claims of any other person upon such negotiable instrument. (N. S. 191.)

97. When a cause may have been set down for trial, such notices shall be given as the order of setting down directs.

98. Every statement, or pleading, may be either printed or written, or partly written and partly printed. (E. 205.)

PAYMENTS INTO, AND OUT OF COURT, AND TENDER.

99. Where any action is brought to recover a debt or damages, any defendant may, before or at the time of delivering his defence, or at any later time by leave of the Judge, pay into court a sum of money by way of satisfaction, which shall be taken to admit the claim or cause of action in respect of which the payment is made. (E. 255.)

100. Payment into court shall be signified in the defence, and the claim or cause of action in satisfaction of which such payment is made shall be specified therein. (E. 256.)

101. With a defence setting up a tender before action, the sum of money alleged to have been tendered must be brought into court. (E. 257.)

102. When payment into court is made before the delivery of the defence; or when the liability of the defendant, in respect of the claim or cause of action in satisfaction of which the payment into court is made, is not denied in the defence; or when such payment is made with a defence setting up a tender of the sum paid, the money paid into court shall be paid out to the plaintiff on his request, or to his advocate, on the plaintiff's written authority, unless the Judge shall otherwise order. (E. 259.)

103. When the liability of the defendant, in respect of the claim or cause of action in satisfaction, of which the payment into court has been made is denied in the defence, the following rules shall apply :

(1.) The plaintiff may accept, in satisfaction of the claim

or cause of action in respect of which the payment into court has been made, the sums so paid in; in which case he shall be entitled to have the money paid out to him as hereinafter provided, notwithstanding the defendant's denial of liability, whereupon all further proceedings, in respect of such claim or cause of action, except as to costs, shall be stayed; or the plaintiff may refuse to accept the money in satisfaction, and reply accordingly; in which case the money shall remain in court, subject to the provisions hereinafter mentioned;

- (2) If the plaintiff accepts the money so paid in, he shall be entitled to have the money paid out to himself on request, or to his advocate, on the plaintiff's written authority, unless the Judge shall otherwise order;
- (3) If the plaintiff does not accept, in satisfaction of the claim or cause of action in respect of which the payment into court has been made, the sum so paid in, but proceeds with the action in respect of such claim or cause of action, or any part thereof, the money shall remain in court and be subject to the order of the Court or a Judge, and shall not be paid out of court, except in pursuance of an order. If the plaintiff proceeds with the action in respect of such claim or cause of action, or any part thereof, and recovers less than the amount paid into court, the amount paid shall be applied, so far as is necessary, in satisfaction of the plaintiff's claim, and the balance, if any, shall, under such order, be repaid to the defendant. If the defendant succeeds in respect of such claim or cause of action, the whole amount shall, under such order, be repaid to him. (E. 260.)

104. The plaintiff, when payment into court is made before delivery of defence, may accept in satisfaction of the claim or cause of action in respect of which such payment has been made, the sum so paid in, in which case he shall give notice to the defendant of such acceptance, and shall be at liberty, in case the entire claim or cause of action is thereby satisfied, to tax his costs, after the expiration of four days from the service of such notice, unless the Judge shall otherwise order; and in case of non-payment of such costs, to have judgment and executions for his costs so taxed in the ordinary way. (E. 261.)

105. Where money is paid into court in two or more actions which are consolidated, and the plaintiff proceeds to trial in one, and fails, the money paid in, and the costs in all the actions, shall be dealt with in the same manner as in the action tried. (E. 262.)

106. A plaintiff may, in answer to a counter-claim, pay money into court in satisfaction thereof, subject to the like conditions as to costs and otherwise as upon payment into court by a defendant. (E. 263.)

107. Money paid into court under an order of a Judge, shall not be paid out of court except in pursuance of a Judge's order: Provided that, where before the delivery of defence money has been paid into court by the defendant pursuant to a Judge's order, he may, unless the Judge shall otherwise order, by his pleading appropriate the whole or any part of such money, and any additional payment, if necessary, to the whole or any specified portion of the plaintiff's claim; and the money so appropriated shall thereupon be deemed to be money paid into court, pursuant to the preceding sections relating to money paid into court and subject in all respects thereto. (E. 265.)

108. In any cause or matter in which a sum of money has been awarded to or recovered by an infant, or person of unsound mind, the Court or Judge may at or after the trial order that the whole or any part of such sum shall be paid into court to the credit of the cause or matter; and any sum so paid into court, and any dividends or interest thereon, shall be subject to such orders as may from time to time be made by the Court or Judge concerning the same, and may either be invested, or be paid out of court, or transferred to such persons, to be held and applied upon and for such trusts and in such manner as the Court or Judge shall direct. (E. 269.)

109. Money paid into court or securities purchased under the provisions of the last preceding section, and the dividends or interest thereon, shall be sold, transferred, or paid out to the party entitled thereto, pursuant to the order of the Court or Judge. (E. 270.)

110. Cash under the control of, or subject to the order of the Court, may be invested in Dominion securities. (E. 271.)

111. Notice of every application for the purpose of conversion of any securities, shall be served upon such persons, if any, as the Court or Judge shall direct. (E. 272.)

112. After appearance has been entered, and statement of defence filed and delivered, the plaintiff may at any time, on notice to the defendant, apply to the Judge for and obtain an order setting down the cause for trial at some convenient sittings of the Court. But if such application be not made within three months after appearance as aforesaid, the defendant on notice may apply for and obtain an order to the like effect, or that the plaintiff's action be dismissed out of Court with costs to the defendant; but the Judge may,

instead of dismissing the action at once, order such dismissal to take effect from a future date, unless the plaintiff meanwhile proceeds with his action.

113. If, on the cause being set down for trial as aforesaid either party to the cause desires to have the questions of fact, therein tried and determined by a Jury, he shall forthwith give written notice to that effect to the Clerk, and if trial by Jury be directed, the party so requiring a Jury shall deposit with the Clerk such sum as he considers sufficient for the payment of jurors' fees and of the expenses of summoning the jury, and the Clerk shall, after the trial, pay the said jury and summoning fees, and, if any balance of the money so deposited with him remains unused after paying such fees, return such balance to the party who deposited the same.

#### MATTERS ARISING PENDING THE ACTION.

114. Any ground of defence which has arisen after action brought, but before the defendant has delivered his statement of defence, and before the time limited for his doing so has expired, may be raised by the defendant in his statement of defence, either alone or together with other grounds of defence. And if, after a statement of defence has been delivered, any ground of defence arises to any set-off or counter-claim alleged therein by the defendant, it may be raised by the plaintiff in his reply, either alone or together with any other ground of reply. (E. 282.)

115. Where any ground of defence arises after the defendant has delivered his statement of defence, or after the time limited for his doing so has expired, the defendant may, and where any ground of defence to any set-off or counter-claim arises after reply or after the time limited for delivering a reply has expired, the plaintiff may, within

eight days after such ground of defence has arisen, or at any subsequent time by leave of the Court or Judge, deliver a further defence or further reply as the case may be, setting forth the same. (E. 283.)

116. Whenever any defendant, in his statement of defence or in any further statement of defence, as mentioned in the last preceding section, alleges any ground of defence which has arisen after the commencement of the action, if the plaintiff admits such defence he may thereupon, unless otherwise ordered by the Judge, have judgment for his costs up to the time of pleading such defence. (E. 284.)

117. Any party shall be entitled to raise by his pleading any point of law, and any point so raised shall be disposed of by the Judge who tries the cause, at or after the trial, provided that by consent of the parties, or by order of the Judge, on the application of either party, the same may be set down for hearing and disposed of at any time before the trial. (E. 286.)

118. If, in the opinion of the Court or Judge, the decision of such point of law substantially disposes of the whole action, or of any distinct cause of action, ground of defence, set-off, counter-claim, or reply therein, the Court or Judge may thereupon dismiss the action, or make such order therein as may be just. (E. 287.)

119. The Court or Judge may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action or answer, and in any such case, or in case of the action or defence being shown by the pleadings to be frivolous or vexatious, the Court or Judge may order the action to be stayed or dismissed, and judgment to be entered accordingly, as may be just. (E. 288.)

120. No action or proceeding shall be open to objection, on the ground that a merely declaratory judgment or order is sought thereby, and the Court or Judge may make binding declarations of right whether any consequential relief is or could be claimed or not. (E. 289.)

121. The plaintiff may at any time before receipt of the defendant's defence, or after the receipt thereof, before taking any other proceeding in the action (save any interlocutory application), by notice in writing wholly discontinue his action against all or any of the defendants, or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay such defendant's costs of the action, or if the action be not wholly discontinued, the costs occasioned by the matter so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action. Save as herein otherwise provided, it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the Court or Judge, but the Court or Judge may, before, or at or after the hearing or trial upon such terms, as to costs and as to any other action, and otherwise as may be just, order the action to be discontinued, or any part of the alleged cause of complaint to be struck out. The Court or Judge may, in like manner, and with the like discretion, as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counterclaim to be withdrawn or struck out, but it shall not be competent to a defendant to withdraw his defence, or any part thereof, without such leave. (E. 290.)

122. When a cause has been entered for trial, it may be withdrawn by either plaintiff or defendant, upon producing to the Clerk of the Court a consent in writing, signed by the parties. (E. 291.)



123. Any defendant may have judgment for the costs of the action, if it is wholly discontinued against him, or for the costs occasioned by the matter withdrawn, if the action be not wholly discontinued, in case such respective costs are not paid within two days after taxation. (E. 292.)

124. If any subsequent action shall be brought before payment of the costs of a discontinued action, for the same, or substantially the same cause of action, the Court or Judge may, if they or he think fit, order a stay of such subsequent action, until such costs shall have been paid. (E. 293.)

#### AMENDMENT.

125. The Court or Judge may, at any stage of the proceedings, allow either party to alter or amend his statement of claim or pleadings, in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. (E. 309.)

126. In all cases, application for leave to amend may be made by either party to the Court or Judge, or to the Judge at the trial of the action, and such amendment may be allowed upon such terms as to costs or otherwise as may be just. (E. 314.)

127. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited, then within fourteen days from the date of the order, such order to amend shall, on the expiration of such limited time as aforesaid, or of such fourteen days, as the case may be, become *ipso facto* void, unless the time is extended by the Judge. (E. 315.)

128. Any statement or pleading may be amended by

written alterations in the copy which has been delivered, and by additions on paper to be interleaved therewith if necessary. (E. 316.)

129. Whenever any statement or pleading is amended, the same, when amended, shall be marked with the date of the order, if any, under which the same is so amended, and of the day on which such amendment is made, in manner following, viz.; "Amended            day of            , pursuant to order of            , dated the            day of            ." (E. 317).

130. Whenever any statement or pleading is amended, such amended document shall be delivered to the opposite party within the time allowed for amending the same. (E. 318.)

131. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court or a Judge on motion or summons. (E. 319.)

132. The costs of and occasioned by any amendment shall be borne by the party making the same, unless the Court or Judge shall otherwise order. (E. 321.)

#### DISCOVERY AND INSPECTION.

133. Any party may, without filing any affidavit, apply to the Court or Judge for an order directing any other party to any cause or matter to make discovery by affidavit of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court or Judge may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the cause

or matter, or make such order, either generally, or limited to certain classes of documents, as may, in their or his discretion, be thought fit. (E. 354.)

134. The affidavit to be made by a party against whom such order as is mentioned in the last preceding section has been made, shall specify, which, if any, of the documents therein mentioned he objects to produce. (E. 355.)

135. It shall be lawful for the Court or Judge, at any time during the pendency of any cause or matter, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such cause or matter, as the Judge or Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just. (E. 356.)

136. Every party to a cause or matter shall be entitled, at any time, by notice in writing, to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his advocate, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence in his behalf in such cause or matter, unless he shall satisfy the Court or Judge that such document relates only to his own title, he being a defendant to the cause or matter, or that he had some other cause or excuse which the Court or Judge shall deem sufficient for not complying with such notice; in which case the Court or Judge may allow the same to be put in evidence on such terms as to costs and otherwise as the Court or Judge shall think fit. (E. 357.)

137. The party to whom such notice is given shall, with-

in two days from the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in section 134 of this Ordinance, or if any of the documents referred to in such notice have not been set forth by him in any such affidavit, then within four days from the receipt of such notice deliver to the party giving the same a notice stating a time within three days from the delivery thereof, at which the documents or such of them as he does not object to produce, may be inspected at the office of his advocate, or in the case of banker's books or other books of account, or books in constant use for the purpose of any trade or business, at their usual place of custody, and stating which (if any) of the documents he objects to produce and on what ground. (E. 359.)

138. If the party served with notice under the last preceding Section of this Ordinance omits to give such notice of a time for inspection, or objects to give inspection, or offers inspection elsewhere than at the office of his advocate, the Judge may, on the application of the party desiring it, make an order for inspection in such place and in such manner as he may think fit; and, except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party. (E. 360.)

139. If the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Judge may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the cause or matter, or that for any other reason it is desirable that any issue or ques-

tion in dispute in the cause or matter should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection. (E. 362.)

140. If any party fails to comply with any order to answer interrogatories, or for discovery, or inspection of documents, he shall be liable to attachment for contempt of court. He shall also, if a plaintiff, be liable to have his action dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended, and the party interrogating may apply to that effect, and an order may be made accordingly. (E. 363.)

141. Service of an order for discovery or inspection made against any party or his advocate shall be sufficient service to found an application for an attachment for disobedience to order. But the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order. (E. 364.)

142. An advocate upon whom an order against any party for discovery or inspection is served under the last preceding section, who neglects without reasonable excuse to give notice thereof to his client shall be liable to attachment. (E. 365.)

#### ADMISSIONS.

143. Any party to a cause or matter may give notice, by his pleading, or otherwise in writing, that he admits the truth of the whole or any part of the case of any other party. (E. 371.)

144. Either party may call upon the other party to admit

any document, saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the cause or matter may be, unless at the trial or hearing the Judge is satisfied that the refusal to admit was reasonable; and no costs of proving any document shall be allowed, unless such notice be given, except where the omission to give the notice is, in the opinion of the Judge, a saving of expense. (E. 372.)

145. Any party may, by notice in writing, at any time, not later than twelve days before the day fixed for trial, call on any other party to admit, for the purposes of the cause, matter, or issue only, any specific fact or facts mentioned in such notice. And in case of refusal or neglect to admit the same within six days after service of such notice, or within such further time as may be allowed by a Judge, the costs of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the cause, matter, or issue may be, unless at the trial or hearing the Judge is satisfied that the refusal to admit was reasonable: Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular cause, matter, or issue, and not as an admission to be used against the party on any other occasion, or in favor of any person other than the party giving the notice: Provided also that the Judge may at any time allow any party to amend or withdraw any admission so made, on such terms as may be just. (E. 374.)

146. Any party may, at any stage of a cause or matter, where admissions of fact have been made, either on the pleadings or otherwise, apply to a Judge for such judgment or order as, upon such admissions, he may be entitled to, without waiting for the determination of any other question between the parties, and the Judge may, upon such

application, make such order or give such judgment as the Judge may think just. (E. 376.)

147. An affidavit of the advocate or his clerk, of the due signature of any admissions made in pursuance of any notice to admit documents or facts, shall be sufficient evidence of such admissions, if evidence thereof be required. (E. 377.)

148. If a notice to admit, or produce, comprises documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice. (E. 379.)

ISSUES, ENQUIRIES AND ACCOUNTS.

149. Where in any cause or matter it appears to the Court or Judge that the issues of fact in dispute are not sufficiently defined, the parties may be directed to prepare issues, and such issues shall if the parties differ, be settled by the Court or Judge. (E. 381.)

150. The Judge may, either by the judgment or order directing an account to be taken, or by any subsequent order, give special direction with regard to the mode in which the account is to be taken or vouched, and, in particular may direct that in taking the account, the books of account, in which the accounts in question have been kept, shall be taken as *prima facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised. (E. 382.)

151. Where any account is directed to be taken, the accounting party, unless the Judge shall otherwise direct, shall make out his account and verify the same by affidavit. The items on each side shall be numbered consecutively, and the account shall be referred to by the affidavit as an exhibit, and be filed in court. (E. 383.)

152. Any party seeking to charge any accounting party beyond what he has by his account admitted to have received, shall give notice thereof to the accounting party, stating, so far as he is able, the amount sought to be charged, and the particulars thereof, in a short and succinct manner. (E. 384.)

153. Every judgment or order for a particular account of the personal estate of a testator or intestate shall contain a direction for an enquiry what parts (if any) of such personal estate are outstanding or undisposed of, unless the Court or Judge shall otherwise direct. (E. 385.)

154. Where by any judgment or order, whether made in court or by the Judge, any accounts are directed to be taken, or inquiries to be made, each such direction shall be numbered, so that, as far as may be, each distinct account and enquiry may be designated by a number, with such variations as the circumstances of the case may require. (E. 386.)

155. In taking any account, directed by any judgment or order, all just allowances shall be made without any direction for that purpose. (E. 387.)

156. If it shall appear to the Judge that there is any undue delay in the prosecution of any accounts or enquiries, or in any other proceedings under any judgment or order, the Judge may require the party having the conduct of the proceedings under any judgment or order, or any other party, to explain the delay, and may thereupon make such order, with regard to expediting the proceedings, or the conduct thereof, or the stay thereof, and as to the costs of the proceedings, as the circumstances of the case may require; and, for the purposes aforesaid, any party may be directed to summon the persons whose attendance is required, and to conduct any proceedings and carry out any directions which



may be given; and any costs of such party, so directed shall be paid by such parties or out of such funds as the Judge may direct. (E. 388.)

SPECIAL CASE.

157. The parties to any cause or matter, at any stage of the cause or matter, or without any previous proceedings having been instituted, may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court. Every such special case shall be divided into paragraphs, numbered consecutively, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby. Upon the argument of such case the Court, and the parties, shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents, stated in any special case, any inference, whether of fact or law, which might have been drawn therefrom if proved at a trial. (E. 389 & N. S. 332.)

158. If it appear to the Court or Judge that there is in any cause or matter a question of law, which it would be convenient to have decided before any evidence is given, or any question or issue of fact is tried, or before any reference is made to a Referee, the Court or Judge may make an order accordingly, and may direct such question of law to be raised for the opinion of the Court, either by special case, or in any such other manner as the Court or Judge may deem expedient, and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed. (E. 390.)

159. No special case in any cause or matter to which a married woman (not being a party thereto in respect of her separate property or of any separate right of action by or against her), infant, or person of unsound mind, not so

found by judicial decision, is a party, shall be set down for argument without leave of the Court or Judge, the application for which must be supported by sufficient evidence that the statements contained in such special case, so far as the same affect the interest of such married woman, infant, or person of unsound mind, are true. (E. 392.)

160. The parties to a special case may, if they think fit, enter into an agreement in writing that, on the judgment of the Court being given in the affirmative or negative of the questions of law raised by the special case, a sum of money, fixed by the parties or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, either with or without costs of the cause or matter; and the judgment of the Court may be entered for the sum so agreed or ascertained, with or without costs, as the case may be, and execution may issue upon such judgment in the ordinary way, unless otherwise agreed, or unless stayed in appeal. (E. 394.)

#### PROCEEDINGS AT TRIAL.

161. If, when a trial is called on, the plaintiff appears, and the defendant does not appear, the plaintiff may prove his claim, so far as the burden of proof lies upon him. (E. 455.)

162. If, when a trial is called on, the defendant appears, and the plaintiff does not appear, the defendant, if he has no counter-claim, shall be entitled to judgment dismissing the action, but if he has a counter-claim, then he may prove such counter-claim so far as the burden of proof lies upon him. (E. 456.)

163. Any verdict or judgment obtained where one party does not appear at the trial may be set aside by the Court or Judge upon such terms as may seem fit, upon an application made within fifteen days after the trial. (E. 457.)

164. The Judge may, if he think it expedient for the interests of justice, postpone or adjourn a trial for such time, and to such place, and upon such terms, if any, as he shall think fit; but no trial shall be postponed upon the ground of the absence of a material witness, unless the affidavit upon which the application is made distinctly states that the deponent believes and is advised that the party in whose behalf the application is made has a just cause of action or defence upon the merits, and that the application is not made solely for delay. (E. 458, and N. S. 469.)

165. Where, through accident or mistake, or other cause, any party omits, or fails to prove some fact material to his case, the Judge may proceed with the trial, subject to such fact being afterwards proved, at such time, and subject to such terms and conditions as to costs and otherwise as the Judge shall direct; and, if the case is being tried by a jury, the Judge may direct the jury to find a verdict as if such fact had been proved, and the verdict shall take effect on such fact being afterwards proved as directed; and, if not so proved, judgment shall be entered for the opposite party, unless the Court or Judge otherwise directs. This rule shall not apply to actions for libel or slander. (N.S. 368.)

166. Upon a trial with a jury, the addresses to the jury shall be regulated as follows: the party who begins, or his counsel, shall be allowed at the close of his case, if his opponent does not announce any intention to adduce evidence, to address the jury a second time, for the purpose of summing up the evidence, and the opposite party, or his counsel, shall be allowed to open his case, and also to sum up the evidence, if any, and the right to reply shall be the same as in England. (E. 460.)

167. The Judge may in all cases disallow any questions put in cross-examination of any party or other witness

which may appear to him to be vexatious, and not relevant to any matter proper to be enquired into in the cause or matter. (E. 462.)

168. The judge may, at or after the trial, direct that judgment be entered for any or either party, or adjourn the case for further consideration, or leave any party to move for judgment. No judgment shall be entered after a trial without the order of the Court or Judge. (E. 463.)

#### INQUIRY AND REFERENCE AS TO DAMAGES.

169. In every action or proceeding in which it shall appear to the Court or Judge that the amount of damages sought to be recovered is substantially a matter of calculation, the Court or Judge may direct that the amount for which final judgment is to be entered shall be ascertained by an officer of the court or other person, and the attendance of witnesses and the production of documents before such officer or other person, may be compelled by subpoena, and such officer or other person may adjourn the inquiry from time to time, and shall endorse upon the order for referring the amount of damages to him the amount found by him, and shall deliver the order with such indorsement to the clerk of the court, and such and the like proceedings may thereupon be had as to taxation of costs, entering judgment and otherwise as in ordinary cases. (E. 481.)

170. Where damages are to be assessed in respect of any continuing cause of action, they shall be assessed down to the time of the assessment. (E. 482.)

#### EVIDENCE GENERALLY.

171. In the absence of any agreement in writing between

the parties, or their advocates and subject to the provisions of this Ordinance, the witnesses at the trial of any action, or at any assessment of damages shall be examined *viva voce* and in open court, but the Court or Judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavits, or that the affidavit of any witness may be read at the hearing or trial, on such conditions as the Court or Judge may think reasonable, or that any witness whose attendance in court ought for some sufficient cause to be dispensed with, be examined by interrogatories or otherwise before a Commissioner or Examiner; provided that, where it appears to the Court or Judge that the other party, *bona fide*, desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit. (E. 483.)

172. An order to read evidence taken in another cause or matter shall not be necessary, but such evidence may, saving all just exceptions, be read by leave of the Court or Judge. (E. 485.)

173. Copies of all writs, records, pleadings, and documents filed in court, when certified by the Clerk, shall be admissible in evidence in all causes and matters, and between all persons or parties, to the same extent as the original would be admissible. (E. 486.)

#### EXAMINATION OF WITNESSES.

174. The Court or Judge may, in any cause or matter, when it shall appear necessary for the purposes of justice, make an order for the examination upon oath, *viva voce*, or by interrogatories in writing, before the Court or Judge or any officer of the court, or any other person, and at any place of any witness or person, and may empower any party to any such cause or matter to give such deposition in evi-

dence therein on such terms, if any, as the Court or Judge may direct. (E. 487).

175. The Court or Judge may in any cause or matter, at any stage of the proceedings, order the attendance of any person for the purpose of producing any writings or other documents named in the order which the Court or Judge may think fit to be produced: Provided that no person shall be compelled to produce under any such order any writing or other document which he could not be compelled to produce at the hearing or trial. (E. 489.)

176. Any person wilfully disobeying any order requiring his attendance for the purpose of being examined or producing any document shall be deemed guilty of contempt of court, and may be dealt with accordingly. (E. 490.)

177. Any person required to attend for the purpose of being examined or of producing any document, shall be entitled to the like conduct-money and payment for expenses and loss of time as upon attendance at a trial in court. (E. 491.)

178. Where any witness or person is ordered to be examined before any officer of the court, or before any person appointed for the purpose, the person taking the examination shall be furnished by the party on whose application the order was made, with a copy of the proceedings in the cause, or with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties. (E. 492.)

179. The examination shall take place in the presence of the parties, their counsel, advocate, or agent, and the witnesses shall be subject to cross-examination and re-examination. (E. 493.)

180. The depositions taken before an officer of the court, or before any other person appointed to take the examination, shall be taken down in writing by or in the presence of the examiner, not ordinarily by question and answer, but so as to represent as nearly as may be the statement of the witness, and when completed shall be read over to the witness and signed by him in the presence of the parties, or such of them as may think fit to attend. If the witness shall refuse to sign the depositions the examiner shall sign the same. The examiner may put down any particular question or answer if there should appear any special reason for doing so, and may put any question to the witness as to the meaning of any answer, or as to any matter arising in the course of the examination. Any questions which may be objected to shall be taken down by the examiner in the depositions, and he shall state his opinion thereon to the advocates, or parties, and shall refer to such statement in the depositions, but he shall not have the power to decide upon the materiality or relevancy of any question. (E. 494.)

181. If any person duly summoned by subpoena to attend for examination shall refuse to attend, or if, having attended, he shall refuse to be sworn or to answer any lawful question, a certificate of such refusal, signed by the examiner, shall be filed in court, and thereupon the party requiring the attendance of the witness may apply to the Court or judge *ex parte*, or on notice, for an order directing the witness to attend, or to be sworn, or to answer any question as the case may be. (E. 495.)

182. If it shall be made to appear to the Judge that a witness has been duly served with a subpoena, and his fees for travel and attendance paid or tendered to him, and that such witness refuses, or neglects to attend to give evidence as required by his subpoena, and that his evidence is neces-

sary and material, it shall be lawful for the Judge, in addition to any powers which he may possess for the punishment of such witness, to issue a warrant under his hand and seal directed to any sheriff or other officer or officers for the immediate arrest of such witness, to be brought before the Court, or person authorized to hear the evidence, for the purpose of giving evidence in the cause (N.S. 389.)

183. If any witness shall object to any question which may be put to him before an examiner, the question so put, and the objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the Court, to be there filed, and the validity of the objection shall be decided by the Court or Judge. (E. 496.)

184. In any case under the three last preceding sections of this Ordinance, the Court or Judge shall have power to order the witness to pay any costs occasioned by his refusal or objection. (E. 497.)

185. When the examination of any witness before any examiner shall have been concluded, the original depositions, authenticated by the signature of the examiner, shall be returned by him to the Clerk of the Court, to whom the same is returnable, and by him shall be filed. (E. 498.)

186. The person taking the examination of a witness under the provision of this Ordinance may, and if need be, shall make a special report to the Court, touching such examination and the conduct or absence of any witness or other person thereon, and the Court or Judge may direct such proceedings and make such order as upon the report they or he may think just. (E. 499.)

187. Except where by this Ordinance is otherwise provided



or may be directed by the Court or Judge, no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same may be offered, unless the Court or Judge is satisfied that the deponent is dead, or beyond the jurisdiction of the court, or unable from sickness or other infirmity to attend the hearing or trial, in any of which cases the depositions, certified under the hand of the person taking the examination, shall be admissible in evidence saving all just exceptions without proof of the signature to such certificate. (E. 500.)

188. Any officer of the Court, or other person directed to take the examination of any witness or person, may administer oaths. (E. 501.)

189. Any party in any cause or matter may by *subpœna ad testificandum*, or *duces tecum* require the attendance of any witness before an officer of the court, or other person appointed to take the examination, for the purpose of using his evidence upon any proceeding in the cause or matter, in like manner as such witness would be bound to attend and be examined at the hearing or trial; and any party or witness having made an affidavit to be used, or which shall be used, on any proceeding in the cause or matter shall be bound on being served with such subpœna to attend before such officer or person for cross-examination. (E. 502.)

190. Evidence taken subsequently to the hearing or trial of any cause or matter, shall be taken as nearly as may be, in the same manner as evidence taken at or with a view to a trial. (E. 503.)

191. The practice with reference to the examination, cross-examination, and re-examination of witnesses at a trial, shall extend and be applicable to evidence taken in any cause or matter at any stage. (E. 504.)

192. The practice of the Court with respect to evidence at a trial, when applied to evidence to be taken before an officer of the court or other person, in any cause or matter after the hearing or trial, shall be subject to any special directions which may be given in any case. (E. 505.)

193. No affidavit or deposition filed or made before issue joined in any cause or matter shall, without special leave of the Court or Judge, be received at the hearing or trial thereof.

194. All evidence taken at the hearing or trial of any cause or matter may be used in any subsequent proceedings in the same cause or matter. (E. 507.)

#### SUBPŒNA.

195. When a subpœna is required for the attendance of a witness for the purpose of proceedings in chambers, such subpœna shall issue from the clerk's office upon a note from the Judge. (E. 510.)

196. The service of a subpœna shall be effected by delivering a copy of the writ, and of the indorsement thereon, and at the same time producing the original writ. (E. 514.)

197. Affidavits filed for the purpose of proving the service of a subpœna upon any party, must state when, where and how, and by whom such service was effected. (E. 515.)

#### PERPETUATING TESTIMONY.

198. Any person who would under the circumstances alleged by him to exist become entitled upon the happening of any future event to any office, or to any estate or interest in any property, real or personal, the right or claim to which cannot by him be brought to trial before the happening of

such event, may commence an action to perpetuate any testimony which may be material for establishing such right or claim. (E. 517.)

199. Witnesses shall not be examined to perpetuate testimony unless an action has been commenced for the purpose. (E. 519.)

200. No action to perpetuate the testimony of witnesses shall be set down for trial. (E. 520.)

#### FOREIGN JUDGMENT.

201. The record, or other evidence of a judgment recovered outside the North-West Territories against any person domiciled in the said Territories, shall be *prima facie* evidence in any action brought on such judgment.

#### AFFIDAVITS AND DEPOSITIONS.

202. Upon any motion, petition, or summons, evidence may be given by affidavit; but the Court or Judge may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit, and may make such interim order or otherwise, as appears necessary to meet the justice of the case. (E. 521 and N. S. 429.)

203. Every affidavit shall be intituled in the cause or matter in which it is sworn; but in every case in which there are more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff or defendant respectively, and that there are other plaintiffs or defendants, as the case may be; and the costs occasioned by any unnecessary prolixity in any such title shall be disallowed. (E. 522.)

204. Affidavits shall be confined to such facts as the wit-

ness is able of his own knowledge to prove, except on interlocutory motions, on which statements as to his belief, with the grounds thereof, may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same. (E. 523.)

205. Affidavits sworn in the North-West Territories shall be sworn before a Judge, Clerk of the Court, or Deputy Clerk, Notary Public, Justice of the Peace, or Commissioners empowered to administer oaths. (E. 524.)

206. Every person administering oaths shall express the time when and the place where he shall take any affidavit or recognizance; otherwise the same shall not be held authentic nor be admitted to be filed without the leave of the Court or Judge. (E. 523.)

207. All examinations, affidavits, declarations, affirmations, and attestations in causes or matters depending in the Supreme Court may be sworn and taken out of the North-West Territories in any part of the Dominion of Canada or in Great Britain or Ireland, or the Channel Islands, or in any Colony, Island, or Plantation or place under the dominion of Her Majesty in foreign parts, before any Judge, Court, Notary Public, or person lawfully authorized to administer oaths in such country, colony, island, plantation, or place respectively, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign part out of Her Majesty's dominions, or before a Commissioner appointed for the purpose of taking affidavits outside of the North-West Territories to be used within said Territories, or a Commissioner duly appointed by the Judge for such purpose, and the Judges and other officers of the Supreme Court shall take judicial notice of the seal or signature, as the case may be, of any such Court, Judge, Notary Public, person, Consul or Vice-Consul,

attached, appended, or subscribed to any such examinations, affidavits, affirmations, attestations and declarations. (E. 526.)

208. Every affidavit shall be drawn up in the first person and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and, as nearly as may be, shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule. (E. 527.)

209. Every affidavit shall state the description and true place of abode of the deponent, and shall be signed by him. (E. 528.)

210. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer, it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents. (E. 529.)

211. Every affidavit or other proof used in a cause, matter or proceeding shall be filed. (E. 530.)

212. The Court or Judge may order to be struck out from any affidavit any matter which is scandalous, and may order the costs of any application to strike out such matter to be paid by the offending party. (E. 531.)

213. No affidavit, having in the jurat or body thereof any interlineation, alteration, or erasure, shall, without leave of the Court or Judge, be read or made use of in any matter depending in Court, unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer taking the affidavit, nor in the case of an erasure, unless the words or figures appearing at the time of taking

the affidavit to be written on the erasure are re-written and signed or initialed in the margin of the affidavit by the officer taking it. (E. 532.)

214. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind, the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature or mark in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate, unless the Court or Judge is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent. (E. 533.)

215. The Court or Judge may receive any affidavit sworn for the purpose of being used in any cause or matter, notwithstanding any defect by misdescription of parties, or otherwise, in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received. (E. 534.)

216. A copy of an affidavit may in all cases be used, the original affidavit having been previously filed, and the copy duly authenticated with the certificate of the Clerk, with the seal of the court. (E. 535.)

217. No affidavit shall be sufficient if sworn before the advocate acting for the party on whose behalf the affidavit is to be used, or before any agent of such advocate or before the party himself. (E. 536.)

218. Any affidavit which would be insufficient if sworn before the advocate himself shall be insufficient if sworn before his clerk or partner. (E. 537.)

219. Where a special time is limited for filing affidavits,

no affidavit filed after that time shall be used, unless by leave of the Court or Judge. On motions founded on affidavits either party may, by leave of the Court or Judge, make affidavits in answer to the affidavits of the opposite party, as to new matter arising out of such affidavits. (E. 538 and N. S. 446.)

220. Except by leave of the Court or Judge no order made *ex parte* in court, founded on any affidavit, shall be of any force, unless the affidavit on which the application was made was actually made before the order was applied for and produced or filed, at the time of making the motion. (E. 539.)

AFFIDAVITS AND EVIDENCE IN CHAMBERS.

221. The party intending to use any affidavit in support of any application, made by him in chambers, shall give notice to the other parties concerned, of his intention in that behalf. (E. 540.)

222. All affidavits which have been previously made and read in court upon any proceedings in a cause or matter may be used before a Judge in chambers. (E. 541.)

223. Every alteration in an account verified by affidavit shall be marked with the initials of the commissioner or officer before whom the affidavit is sworn, and such alterations shall not be made by erasure. (E. 542.)

224. Accounts, extracts, and other documents, referred to by affidavit, shall not be annexed to the affidavit, or referred to, in the affidavit, as annexed, but shall be referred to as exhibits. (E. 543.)

225. Every certificate on an exhibit referred to in an affidavit, signed by the commissioner, or officer, before whom the affidavit is sworn, shall be marked with the short title of the cause or matter. (E. 544.)

MOTION FOR JUDGMENT.

226. When, at, or after a trial with a jury, the Judge has directed that any judgment be entered, any party may apply to set aside such judgment, and enter any other judgment, on the ground that the judgment directed to be entered is wrong, by reason that the finding of the jury upon the questions submitted to them has not been properly entered. (E. 561.)

227. Where, at, or after a trial by a judge, either with or without a jury, the Judge has directed that any judgment be entered, any party may apply to set aside such judgment and to enter any other judgment, upon the ground that, upon the finding as entered, the judgment so directed is wrong. (E. 562.)

228. When issues have been ordered to be tried, or issues or questions of fact to be determined in any manner, the plaintiff may set down a motion for judgment as soon as such issues or questions have been determined. If he does not set down such a motion, and give notice thereof to the other parties within ten days after his right so to do has arisen, then after the expiration of such ten days any defendant may set down a motion for judgment, and give notice thereof to the other parties. (E. 565.)

229. When issues have been ordered to be tried, or issues or questions of fact to be determined in any manner, and some only of such issues or questions of fact have been tried or determined, any party who considers that the result of such trial or determination renders the trial or determination of the others of them unnecessary, or renders it desirable that the trial or determination thereof should be postponed, may apply to the Court or Judge for leave to set down a motion for judgment, without waiting for such trial or determination. And the Court or Judge may, if satisfied of



the expediency thereof, give such leave, upon such terms, if any, as shall appear just, and may give any directions which may appear desirable as to postponing the trial of the other issues of fact. (E. 566.)

230. No motion for judgment shall, except by leave of the Court or Judge, be set down after the expiration of one year from the time when the party seeking to set down the same first became entitled so to do. (E. 567.)

231. Upon a motion for judgment, or upon an application for a new trial, the Court may draw all inferences of fact not inconsistent with the finding of the jury, and if satisfied that it has before it all the materials necessary for finally determining the questions in dispute, or any of them, or for awarding any relief sought, give judgment accordingly, or may, if it shall be of opinion that it has not sufficient materials before it to enable it to give judgment, direct the motion to stand over for further consideration, and direct such issues or questions to be tried or determined, and such accounts and inquiries to be taken and made, as it may think fit. (E. 568.)

232. When it is made to appear to the Court or Judge, on the hearing of any application which may be pending before the Court or Judge, that it will be conducive to the ends of justice to permit it, the Court or Judge may direct any applications to be turned into a motion for judgment, or hearing of the cause or matter; and thereupon the Court or Judge may make such order as to the time and manner of giving the evidence in the cause or matter, and with respect to the further prosecution thereof as the circumstances of the case may require; and upon the hearing it shall be discretionary with the Court or Judge to either pronounce a judgment or make such order as the Court or Judge deems expedient. (N. S. 477.)

233. Where, at any time after the writ of summons has been issued, it is made to appear to the Court or Judge on an *ex parte* application that it will be conducive to the ends of justice to permit a notice of motion for a judgment to be forthwith served, the Court or Judge may order the same accordingly, and when such permission is granted, the Court or Judge is to give directions, as to the service of the notice of motion and filing of the affidavits, as may be expedient. Upon the hearing of such motion the Court or Judge, instead of either granting or refusing the application, may give such directions for the examination of either parties or witnesses, or for the making of further enquiries, or with respect to the further prosecution of the suit, as the circumstances of the case may require, and upon such terms as to costs as the Court or Judge think right. (N. S. 478.)

#### ENTRY OF JUDGMENT.

234. When any judgment is pronounced by the Court or Judge, the entry of the judgment shall be dated as of the day on which such judgment is pronounced, unless the Court or Judge shall otherwise order, and the judgment shall take effect from that date: Provided that by special leave of the Court or Judge, a judgment may be ante-dated or post-dated. (E. 571.)

235. In all cases not within the last preceding section the entry of judgment shall be dated as of the day on which the requisite documents are left with the proper officer for the purpose of such entry, and the judgment shall take effect from that date. (E. 572.)

236. Any judge may deliver the judgment of the Court when authorized to do so by the Judges in *Banc* who heard the matter on which judgment is to be pronounced, or may deliver the judgment of any other Judge when authorized

so to do by such other Judge, notwithstanding the absence of the Judges or Judge aforesaid. (N. S. 482.)

237. Every judgment or order made in any cause or matter requiring any person to do an act thereby ordered shall state the time, or the time after service of the judgment or order, within which the act is to be done, and upon the copy of the judgment or order which shall be served upon the person required to obey the same there shall be endorsed a memorandum in the words or to the effect following, viz.:—

“If you, the within-named A.B., neglect to obey this judgment (or order) by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the same judgment (or order).”  
(E. 573.)

238. Where, under this Ordinance, or otherwise, it is provided that any judgment may be entered upon the filing of any affidavit or production of any document, the Clerk shall examine the affidavit or document produced, and if the same be regular and contain all that is by law required, he shall enter judgment accordingly. (E. 574.)

239. When by this Ordinance or otherwise, any judgment may be entered pursuant to any order or certificate, or return, to any writ, the production of such order, certificate or return, shall be a sufficient authority to the officer to enter judgment accordingly. (E. 575.)

240. In any cause or matter where the defendant has appeared by advocate, no order for entering judgment shall be made by consent, unless the consent of the defendant is given by his advocate or agent. (E. 577.)

241. When the defendant has not appeared, or has appeared in person, no such order shall be made unless the defendant attends before a Judge and gives his consent in person, or unless his written consent is attested by an advocate acting on his behalf. (E. 578.)

242. Satisfaction of a judgment shall be signed by the plaintiff, or his personal representatives, or by an advocate specially authorized for that purpose in writing, unless the Judge, on special circumstances set forth by affidavit, dispense with such authorization. (N. S. 489.)

#### EXECUTION.

243. When any person is, by any order directed to pay any money, or to deliver up or transfer any property, real or personal, to another, it shall not be necessary to make any demand thereof, but the person so directed shall be bound to obey such order, upon being duly served with a copy of the same without demand. (E. 579.)

244. Where any person who has obtained any judgment or order upon condition, does not perform or comply with such condition, he shall be considered to have waived or abandoned such judgment or order, so far as the same is beneficial to himself, and any other person interested in the matter may, on breach or non-performance of the condition take either such proceedings as the judgment or order may in such case warrant, or such proceedings as might have been taken if no such judgment or order had been made, unless the Court or Judge shall otherwise direct. (E. 580.)

245. A judgment for the recovery by, or payment to, any person of money, or costs, may, after fifteen days from the date of the judgment, unless otherwise ordered by the Judge, be enforced by execution, and a separate execution may issue for costs. (E. 581.)

246. A judgment for the recovery or for the delivery or the possession of land may be enforced by writ of possession. (E. 583.)

247. A judgment for the recovery of any property other than land or money may be enforced by writ for delivery of the property. (E. 584.)

248. A judgment requiring any person to do any act other than the payment of money, or to abstain from doing anything, may be enforced by writ of committal. (E. 585.)

249. Where a judgment or order is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency, the party so entitled may, upon the fulfilment of the condition or contingency, and demand made upon the party against whom he is entitled to relief, apply to the Judge for leave to issue execution against such party. And the Judge may, if satisfied that the right to relief has arisen according to the terms of the judgment or order, order that execution issue accordingly, or may direct that any issue or question necessary for the determination of the rights of the parties be tried in any of the ways in which questions arising in any action may be tried. (E. 587.)

250. Where a judgment or order is against a firm, execution may issue:—

- (1) Against any property of the partnership;
- (2) Against any person who has appeared in his own name or who has admitted on the pleadings that he is or who has been adjudged to be a partner;
- (3) Against any person who has been served as a partner, with the writ of summons, and has failed to appear.

If the party who has obtained judgment, or an order, claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to a Judge for leave so to do; and the Judge may give such leave if the liability be not disputed, or if such liability be disputed, may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined. (E. 588.)

251. No writ of execution shall be issued without the party issuing it, or his advocate, filing a *praecepe* for that purpose; the *praecepe* shall contain the title of the action the reference to the record, the date of the judgment, and of the order, if any, directing the execution to be issued, the names of the parties against whom, or of the firm against whose goods the execution is to be issued; and shall be signed by or on behalf of the advocate of the party issuing it, or by the party issuing it, if he do so in person. (E. 590.)

252. When entitled thereto, the party in whose favor such judgment has been entered, may have one or more writs of execution, directed to the Sheriff of any one of the Judicial Districts of the North-West Territories, for levying within the judicial district named in such writ, the amount due on such judgment, and legal interest thereon, and costs subsequent to such judgment, by distress and sale of the goods and chattels and personal property liable to seizure and sale for debt, of the party against whom the said judgment has been so entered. (N. W. T.)

253. Every writ of execution shall bear date the day of its issue, and shall remain in force for one year from its date (and no longer if unexecuted unless renewed), but such writ may, at any time before its expiration, and so from time to time during the continuance of the renewed writ, be

renewed by the party issuing it for one year from the date of such renewal by being marked in the margin with a memorandum to the effect following: "*Renewed for one year from the                      day of                      A.D. 18                      ,*" (signed by the Clerk); and the production of a writ of execution marked as renewed in manner aforesaid shall be sufficient evidence of its having been so renewed; and a writ of execution so renewed shall have effect, and be entitled to priority, according to the time of the original delivery thereof. (N.W.T.)

254. In every case of execution the party entitled to execution may also levy, for the Sheriff's fees, poundage and other expenses of execution, over and above the sum recovered. (E. 593.)

255. Every writ of execution for the recovery of money shall be indorsed with a direction to the Sheriff, or other officer or person to whom the writ is directed, to levy the money really due and payable, and sought to be recovered under the judgment or order, stating the amount, and also to levy legal interest thereon, if sought to be recovered, together with sheriff's fees, poundage and other expenses of execution. (E. 594.)

256. As between the original parties to a judgment or order, execution may issue at any time within six years from the recovery of the judgment or the date of the order. (E. 600.)

257. In the following cases, viz.:

- (1) Where six years have elapsed since the judgment or date of the order, or any change has taken place by death or otherwise, in the parties entitled or liable to execution;

- (2) Where a husband is entitled or liable to execution upon a judgment or order for, or against a wife ;
- (3) Where a party is entitled to execution upon a judgment of assets *in futuro* ;
- (4) Where a party is entitled to execution against any of the shareholders of a joint-stock company upon a judgment recorded against such company, or against a public officer or other person, representing such company,

the party alleging himself to be entitled to the execution may apply to the Judge for leave to issue execution accordingly. And such Judge may, if satisfied that the party so applying is entitled to issue execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties shall be tried in any of the ways in which any question in an action may be tried. And in either case such Judge may impose such terms as to costs or otherwise as shall be just. (E. 601.)

258. Every order of the Court or Judge in any case or matter may be enforced against all persons bound thereby in the same manner as a judgment to the same effect. (E. 602.)

259. Any person not being a party to a cause or matter, who obtains any order, or in whose favor any order is made, shall be entitled to enforce obedience to such order by the same process as if he were a party to such cause or matter, and any person not being a party to a cause or matter, against whom obedience to any judgment or order may be enforced, shall be liable to the same process for enforcing obedience to such judgment or order, as if he were a party to such cause or matter. (E. 604.)



260. Any party against whom a judgment has been given may apply to the Judge for a stay of execution or other relief against such judgment, upon the ground of facts which have arisen too late to be pleaded; and the Judge may give such relief and upon such terms as may be just. (E. 605.)

261. If a mandamus, granted in an action or otherwise, or a mandatory order, injunction or judgment for the specific performance of any contract be not complied with, the Court or Judge, besides or instead of proceedings against the disobedient party for contempt, may direct that the act required to be done may be done so far as practicable by the party by whom the judgment or order has been obtained, or some other person appointed by the Court or Judge, at the cost of the disobedient party, and upon the act being done, the expenses incurred may be ascertained in such manner as the Court or Judge may direct, and execution may issue for the amount so ascertained, and costs. (E. 608.)

262. Any judgment or order against a corporation wilfully disobeyed may, by leave of the Court or Judge be enforced by execution against the corporate property or by attachment of the persons of the directors or other officers thereof. (E. 609 in part.)

263. Writs of execution shall follow the form in the Appendix to this Ordinance, adapted to the circumstances of each case.

264. No writ of execution shall bind the goods of the party against whom the same is issued, but from the time the said writ shall be delivered to the Sheriff to be executed; and the Sheriff shall upon the receipt of the writ endorse thereon the time when the same was received by him. (N. S. 530.)

265. No writ of execution or other process under which personal property is directed to be seized shall bind the personal property or prejudice the title thereto acquired by any person *bona fide* and for a valuable consideration before the actual seizure under such writ or process ; provided such person had not at the time he acquired such title, notice that such writ or any other writ by virtue of which the personal property of such owner might be seized or attached had been delivered to and remained unexecuted in the hands of the Sheriff. (N. S. 521 in part.)

266. No sale of personal property seized under any writ of execution or process shall be made without such sale being advertised for at least ten days by public notice thereof, describing the property to be sold, copies of which notice shall be posted in the offices of the Clerk and Sheriff, and at least five public places in the locality where the same is to be sold ; but when the articles seized are of a perishable nature or are of such a character as not to allow of a delay of ten days, as hereinbefore provided, the same may be sold forthwith. (N. W. T.)

267. On any writ of execution against goods and chattels, the Sheriff charged with the execution of the same may seize and sell the interest or equity of redemption, in any goods or chattels, including leasehold interests in any lands of the party against whom the writ has issued, and such sale shall convey whatever interest the mortgagor had in such goods and chattels at the time of the seizure. (N. W. T.)

268. In cases where registered mortgages upon lands or chattels are seized by the Sheriff, such seizure shall have no effect until a notice thereof in writing, signed by the officer charged with the execution of such writ has been deposited

in the office where the same is registered, and an entry of every such notice, when delivered, shall be made in the proper books; for which service, in each instance, a fee of fifty cents shall be payable to the Registering Officer. (N. W. T.)

269. The Sheriff having the execution of any writ of execution against goods, may seize any money or bank notes, any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money belonging to the person against whose effects the writ has issued, and such Sheriff may pay and assign them to the execution creditor at the sum actually due on and secured by them respectively if he will accept them as money collected, or sue in his own name for the recovery of the sums secured thereby when the time of payment thereof has arrived, and on payment execute and give valid discharges therefor; but no such Sheriff or other party shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, bond, specialty or other security, unless the party who sued out the execution furnishes sufficient security to indemnify him from all costs and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof. (N. W. T.)

270. The transference by the Sheriff to the execution creditor of any cheques or personal property named in the next preceding section shall discharge the Sheriff to the extent of the amount due on and secured thereby on the said writ. (N. S. 524.)

271. The Sheriff shall pay over to the execution creditor or his advocate all moneys so recovered or a sufficient sum

to discharge the amount directed by the writ to be levied less his fees and expenses. (N. S. 525.)

272. No sale of growing crops, whether grain or roots, shall take place until after the same have been harvested or threshed, or taken and removed from the ground, when, after all charges for harvesting, threshing, taking and removing, have been paid and all exemptions been claimed and reserved, the balance may be subject to be sold. (N.W.T.)

273. Any person who becomes entitled to issue a writ of execution against goods may, at or after the time of issuing the same, issue a writ of execution against the lands of the person liable, into any Judicial District, provided that not less than fifty dollars remain due and unpaid on the judgment, and deliver the same to the Sheriff of the district named in the writ and charged with the execution of the writ of execution against goods at or after the time of delivery to him of the writ against goods, and either before or after any return thereof; but such officer shall not sell the said lands within less than twelve months from the day on which the writ against lands is delivered to him, nor until three months' notice of such sale has been posted in a conspicuous place in the Sheriff and Clerk's office, and published two months in the newspaper nearest the lands to be sold. (N.W.T.)

274. No sale shall be had under any execution against lands until after a return of *nulla bona* in whole or in part, with respect to an execution against goods in the same suit or matter by the same officer. (N.W.T.)

275. No Sheriff shall make any return of *nulla bona*, either in whole or in part, to any writ against goods, until the whole of the goods of the execution debtor in the district, named in the writ, liable to seizure which he can find have been exhausted. (N.W.T.)

276. If the amount authorized to be made and levied under the writ against goods is made and levied thereunder, the person issuing the writ against lands shall not be entitled to the expenses thereof or of any seizure or advertisement thereunder, and the return to be made by the officer charged with the execution of the writ against lands to such writ, shall be to the effect that the amount has been so made and levied as aforesaid. (N.W.T.)

277. A written order, signed by the advocate by whom any writ of execution or other process as aforesaid shall have been issued, or by the party at whose instance the same issued, shall justify the Sheriff paying out money realized under execution; But the order of the Advocate shall not suffice for that purpose where the party for whom the Advocate professes to act has given to the Sheriff written notice to the contrary. (N. S. 531.)

278. Where under any writ of execution while in force personal property has been seized the Sheriff may proceed to sell the same although the writ of execution has expired. (N. S. 540.)

279. Where it is sought to enforce a judgment made for the recovery of any property other than land or money, the Court or Judge may upon the application of the plaintiff or person entitled thereto, order that execution shall issue for the delivery of the property without giving the defendant or other party the option of retaining the property and paying the assessed value, if any; or at the option of the plaintiff or person entitled thereto that the Sheriff levy and make the assessed value, with or without costs in either instance, as may be just, and for such purpose separate writs may be issued for the costs. (E. 647.)

280. A judgment or order that a party do recover possession of any land, or that any person therein named do deliver

up possession of any lands to some other person, the person prosecuting such judgment or order may without any order for such purpose after fifteen days from the entry of the judgment or service of a copy of the order, enforce the same by writ of possession. (E. 644 and 645.)

281. Upon any judgment or order for the recovery or delivery of possession of any land and costs, there may be either one writ or separate writs of execution for the recovery of possession and for the costs at the election of the successful party. (E. 646.)

#### DISCOVERY IN AID OF EXECUTIONS.

282. When a judgment or order is for the recovery or payment of money, the party entitled to enforce it may apply to a Judge for an order that the debtor, liable under such judgment or order, or, in the case of a corporation, that any officer thereof, be orally examined, as to whether any and what debts are owing to the debtor, and whether the debtor has any and what other property or means of satisfying the judgment or order, before the Judge or whom he may appoint; and the Judge may make an order for the attendance and examination of such debtor, or of any other person, and for the production of any books or documents. (E. 610.)

283. In case of any judgment or order, other than for the recovery or payment of money, if any difficulty arise in or about the execution or enforcement thereof, any party interested may apply to a Judge, and the Judge may make such order thereon, for the attendance and examination of any party, or otherwise, as may be just (E. 611.)

284. Any person liable to be examined under either of the last two preceding sections of this Ordinance, shall be entitled to the like conduct money, and payment for expen-

ses and loss of time, as upon attendance at a trial in court, and may be compelled to attend and testify, and to produce books and documents, in the same manner, and subject to the same rules of examination, and the same consequences of neglecting to attend, or refusing to disclose the matters in respect of which he may be examined, as in the case of a witness on a trial. (N. S. 534.)

285. The costs of any application under the last three preceding sections of this Ordinance, or either of them, and of any proceedings arising from, or incidental thereto, shall be in the discretion of the Judge. (E. 612.)

286. Upon the affidavit of any person who has obtained a judgment or order for the recovery or payment of money or his advocate, stating that judgment has been recovered, or the order made, and that it is still unsatisfied, and to what amount; or before judgment, in cases where the plaintiff's claim is for a debt or liquidated demand, on a like affidavit, showing the nature and amount of such claim. In either case, such affidavit, further stating that any other person (naming him) is indebted to such debtor, and is within the jurisdiction of the court, and filing such affidavit with the Clerk, the Clerk shall issue a summons in the form of the appendix, calling upon the said person (thereinafter called the garnishee) to appear within ten days after service of such summons, and state whether or not he admits any indebtedness due or accruing due as alleged, and to what amount, and show cause, if any, why he should not pay into court the amount of the said indebtedness or sufficient to satisfy the plaintiff's claim and costs, provided that no order be made against the garnishee until after judgment has been given for the plaintiff in the original action, and provided that no debt due or accruing to a mechanic, laborer, servant, clerk or employe in respect of his wages or salary shall be liable to seizure or attachment under this Ordinance

to the extent of one month's wages, not exceeding fifty dollars.

287. Service of such summons upon the garnishee shall bind such debts in his hands, and in case of a corporation being garnishee that has a branch or agency thereof within the jurisdiction, or in case of a non-resident carrying on business within the jurisdiction, having an agent, managing clerk or other representative resident and carrying on business therein, service of the summons upon such agent, managing clerk or other representative shall bind the debts.

288. If the garnishee does not pay into court the amount due from him to the debtor, and does not dispute the debt due or claimed to be due from him to such debtor, or if he does not appear upon the summons, then the Judge may, after judgment has been entered against the primary debtor, order that judgment be entered up against the garnishee, and that execution issue and it may issue accordingly, to levy the amount due from such garnishee, or so much thereof as may be sufficient to satisfy the judgment or order. (E. 624.)

289. If the garnishee disputes his liability, the Judge, instead of making an order that judgment be entered and execution issue, may order that any issue or question necessary for determining his liability be tried or determined in any manner in which any issue or question in an action may be tried or determined. (E. 625.)

290. Whenever, in proceedings to obtain an attachment of debts, it is suggested by the garnishee that the debt sought to be attached belongs to some third person, or that any third person has a lien or charge upon it, the Judge may order such third person to appear, and state the nature and particulars of his claim upon such debt. (E. 626.)



291. After hearing the allegations of any third person under such order as in the next preceding section mentioned, and of any other person whom by the same or any subsequent order the Judge may order to appear, or in case of such third person not appearing when ordered, the Judge may order execution to issue to levy the amount due from such garnishee, or any issue or question to be tried or determined in manner aforesaid and may bar the claim of such third person or make such other order as such Judge shall think fit, upon such terms, in all cases with respect to the lien or charge (if any) of such third person, and to costs as the Judge shall think just and reasonable. (E. 627.)

292. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid, shall be a valid discharge to him as against the debtor, to the amount paid or levied, although such proceedings may be set aside, or the judgment or order reversed, or the plaintiff fails in his action. (E. 628.)

293. The garnishee shall not be liable for the costs of the proceeding unless and in so far only as occasioned by setting up a defence which he knew, or ought to have known, was untenable; and subject to this provision the costs of all parties shall be in the discretion of the Judge. (N.W.T.)

INTERLOCUTORY ORDERS AS TO MANDAMUS, INJUNCTIONS OR  
INTERIM PRESERVATION OF PROPERTY.

294. When by any contract a *prima facie* case of liability is established, and there is alleged as matter of defence a right to be relieved wholly or partially from such liability, the Court or Judge may make an order for the preservation or interim custody of the subject matter of the litigation, or may order that the amount in dispute be brought into court or otherwise secured. Application for an order under this

section may be made on notice by any party, at any time after his right thereto appears from the pleadings; or, if there be no pleadings, is made to appear by affidavit, or otherwise, to the satisfaction of the Court or Judge. (E. 657 and 663.)

295. It shall be lawful for a Judge, on the application of any party, to make any order for the sale by any person or persons named in such order, and in such manner and on such terms as the Judge may think desirable, of any goods; wares, or merchandize which may be of a perishable nature or likely to injure from keeping, or which for any other just or sufficient reason it may be desirable to have sold at once. (E. 658.)

296. It shall be lawful for a Judge, upon the application of any party to a cause or matter, and upon such terms as may be just, to make any order for the detention, preservation or inspection of any property or thing being the subject of such cause or matter, or as to which any question may arise therein, and for all or any of the purposes aforesaid, to authorize any person to enter upon or into any land or building in the possession of any party to such cause or matter, and for all or any of the purposes aforesaid, to authorize any samples to be taken, or any observation to be made or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence. (E. 659.)

297. It shall be lawful for the Judge, by whom any cause or matter may be heard or tried, with or without a jury or before whom any cause or matter may be brought, to inspect any property or thing concerning which any question may arise therein, and in jury cases the Judge may make all such orders upon the Sheriff, or other person as may be necessary to procure the attendance of the jury at such time and place

and in such manner as he may think fit. (E. 660 and 661.)

298. A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court or Judge in all cases in which it shall appear to the Court or Judge to be just or convenient that such order should be made; and any such order may be either unconditionally or upon such terms and conditions as the Court or Judge shall think just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court or Judge shall think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and whether the estates claimed by both or by either of the parties are legal or equitable. (E. 25, 1873.

299. Where an action is brought to recover, or a defendant in his defence seeks, by way of counter-claim, to recover specific property other than land, and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to recover the property by virtue of a lien, or otherwise, as security for any sum the Judge may, at any time after such last-mentioned claim appears from the pleadings, or, if there be no pleadings, by affidavit or otherwise to the satisfaction of such Judge, order that the party claiming to recover the property, be at liberty to pay into court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed and such further sum, if any, for interest and costs as such Judge may direct, and that upon

such payment into court being made, the property claimed be given up to the party claiming it. (E. 664.)

300. Where any real or personal estate forms the subject of any proceedings in the Court and the Judge is satisfied that the same will be more than sufficient to answer all the claims thereon which ought to be provided for in such proceedings, the Judge may at any time, after the commencement of the proceedings, allow to the parties interested therein, or any one or more of them, the whole or part of the annual income of the real estate, or a part of the personal estate, or the whole or a part of the income thereof, up to such time as the Judge shall direct. (E. 665.)

301. Whenever in an action for the administration of the estate of a deceased person, or execution of the trusts of a written instrument, a sale is ordered of any property vested in any executor, administrator, or trustee, the conduct of such sale shall be given to such executor, administrator, or trustee, unless the Judge shall otherwise direct (E. 666.)

302. An injunction shall be by a judgment or order, and any such judgment or order shall have the effect which a writ of injunction had in England. (E. 667.)

303. In any cause or matter in which an injunction has been, or might have been claimed, the plaintiff may, before or after judgment, apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract complained of, or from the commission of any injury or breach of contract of a like kind relating to the same property or right or arising out of the same contract; and the Judge may grant injunction, either upon or without terms, as may be just. (E. 668.)

RECEIVERS.

304. Where an order is made directing a receiver to be appointed, unless otherwise ordered, the person to be appointed shall first give security, to be allowed by a Judge duly to account for what he shall receive as such receiver, and to pay the same as the Court or Judge shall direct; and the person so to be appointed shall, unless otherwise ordered, be allowed a proper salary or allowance. (E. 672.)

305. When a receiver is appointed with a direction that he shall pass accounts, the Judge shall fix the days upon which he shall (annually, or at longer or shorter periods,) file, and pass such accounts, and also the days upon which he shall pay the balances appearing due on the accounts so filed, or such part thereof as shall be certified as proper to be paid by him, and with respect to any such receiver as shall neglect to file and pass his accounts, and pay the balances thereof at the times so to be fixed for that purpose as aforesaid, the Judge before whom any such receiver is to account may, from time to time, when his subsequent accounts are produced to be examined and passed, disallow the salary therein claimed by such receiver, and may also, if he shall think fit, charge him with interest upon the balances so neglected to be paid by him during the time the same shall appear to have remained in the hands of any such receiver. (E. 674.)

306. In case any receiver failing to file any account or affidavit, or to pass such account, or to make any payment or otherwise, the receiver, or the parties, or any of them may be required to attend before the Judge to show cause why such amount or affidavit has not been filed, or such account passed, or such payment made, or any other proper proceeding taken, and thereupon such directions as shall be proper may be given by the Judge including the

discharge of any receiver and appointment of another, and payment of costs. (E. 677.)

307. When a receivership has been completed the book containing the accounts shall be deposited in the Clerk's office.

308. The accounts of liquidators and of guardians shall be passed and verified in the same manner as receiver's accounts.

ATTACHMENT BEFORE JUDGMENT.

309. At or after the commencement of any suit wherein the claim is for the recovery of an indebtedness from the defendant to the plaintiff exceeding fifty dollars, upon affidavit made by the plaintiff, or one of several plaintiffs if more than one, his or their agent having a personal knowledge of the matter, stating clearly and succinctly from what cause such indebtedness arose and the amount thereof, and that he has good reason to believe (giving such reasons therefor) that the defendant

- (a) Has absconded from the North-West Territories, leaving personal property in any judicial district thereof liable to seizure under execution for debt;
- (b) or has attempted to remove such personal property out of the said Territories with intent to defraud his creditors generally or the plaintiff in particular;
- (c) or keeps concealed to avoid service of process; and, in either case, that the deponent verily believes that without the benefit of the attachment the plaintiff will lose his debt or sustain damage, (C.C.P. Que.)

and upon the further affidavit of one other credible person that he is well acquainted with the defendant and has good reason to believe (giving such reasons) that the defendant

has absconded, or has attempted to remove his personal property out of the said Territories, or keeps concealed, with intent as aforesaid, as the case may be; and upon filing the said affidavits, the Clerk shall issue in the cause a writ of attachment in the form given in the Appendix hereto, directed to the Sheriff, commanding him to attach, seize, take and safely keep all the personal property and effects of such debtor liable to seizure under execution for debt, and to return such writ to the court; provided that in any cases where the debtor has absconded from the Territories, leaving no wife or family behind, no property of such debtor shall be exempt from seizure.

310. A copy of every such writ shall be served on the debtor against whose effects the same is issued, at the time of making any seizure thereunder, or as soon thereafter as such service can be effected, if the said debtor can be found; but if such personal service cannot be effected, a copy thereof shall be left with some grown-up person resident at the place where such seizure is made; or if no person is resident, posted in a conspicuous place on the premises. (N.W.T.)

311. Immediately after making a seizure under said writ, the Sheriff shall make a return of the writ and with such return transmit annexed thereto an inventory of the property seized, and the value thereof, according to the best of his judgment, and an affidavit of the manner in which service of such writ has been effected. (N.W.T.)

312. Upon the seizure of any property under the writ hereinbefore described, the person against whom the same was issued may have the same returned to him upon giving to the seizing officer sufficient security for such amount as the plaintiff may recover in the action (not exceeding the sum sworn to) together with costs of suit.

313. Notwithstanding the issue of a writ of attachment, the cause shall be proceeded with in the ordinary way, but the plaintiff shall not have judgment against the defendant except by order of the Judge.

314. A writ of attachment may be set aside by a Judge on satisfactory proof by affidavit that the creditor who sued out such writ had not reasonable cause for taking such proceeding,

315. In case any horses, cattle, sheep, or any perishable goods or chattels, or such as from their nature cannot be safely kept or conveniently taken care of, are taken under any writ of attachment, the officer who seized the same shall have them appraised and valued on oath by two competent persons, and in case the plaintiff desires it and deposits with the sheriff a bond to the defendant, executed by one or more persons whose sufficiency shall be approved of by such officer, in double the amount of the appraised value of such articles, conditioned for the payment of such appraised value to the defendant, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the Sheriff with the approval of a Judge, shall proceed to sell all or any of such enumerated articles at public auction to the highest bidder, giving not less than ten days' notice of such sale, unless any of the articles are of such a nature as not to allow of that delay, in which case the officer shall sell such articles last mentioned forthwith, and shall hold the proceeds of such sale for the same purposes as he would have held any property seized under the attachment. (N.W.T.)

316. When several persons sue out writs of attachment against a defendant in attachment, the proceeds of the property and effects attached shall, subject to any priorities



authorized by law, be rateably distributed among such of the attaching plaintiffs in such writs, and such other persons as shall in due course obtain judgment against the defendant in the said court, and sue out executions thereon in proportion to the sums actually due upon such judgments, and the Judge may, on application, delay such distribution to give reasonable time for the obtaining of judgments, as also to fix a date for such distribution. (N.W.T.)

317. Any person who has commenced a suit in any court, the process wherein was served before the plaintiff who sues out a writ of attachment against the same defendant has served his writ, may, notwithstanding the suing out of a writ of attachment, proceed to judgment and execution in his suit in the usual manner; and if he obtains execution before the plaintiff in any such writ of attachment, he shall have the full advantage of his priority of execution, in the same manner as if the property and effects of such absconding debtor still remained in his own hands and possession; but if the Judge so orders, subject to the prior satisfaction of all costs of suing out and executing the attachment.

#### REPLEVIN.

318. In any action brought for the recovery of any personal property, and claiming, whether alone or with any other claim, that such property was unlawfully taken, or is unlawfully detained, the plaintiff may at any time after the issue of the writ of summons, obtain a writ of replevin for the delivery of the property to him, on his complying with the following sections. Such writ shall be in the form in the Appendix to this Ordinance, with such variations as circumstances may require; but nothing herein contained shall authorize the replevying any property seized by the Sheriff or any other officer charged with the execution of any process issued out of the court. (N.S. 567 in part.)

319. Writs of replevin shall be issued by the Clerk of the Court upon the plaintiff or his duly authorized agent filing an affidavit, naming the Judicial District in which the property is, and

- (1) Embodying a description of the property sought to be replevied, and the value thereof, to the best of the deponent's belief; and that the person claiming is the owner or is entitled to the possession of the said property;
- (2) Further stating, if replevin be sought in the case of property distrained for rent, or *damage feasant*, that the property was taken under color of a distress for rent or *damage feasant*, as the case may be;
- (3) Or in the case of property wrongfully taken out of the possession of the claimant, or fraudulently got out of his possession, stating, in addition to the particulars required by sub-section one of this section, the time and the wrongful and fraudulent manner in which the same was taken or gotten out of his possession, and such facts and circumstances as shew that the claimant is entitled to the possession of the property.

320. Before the Sheriff replevies, he shall take a bond in double the value of the property to be replevied, as stated in the writ. The bond shall be assignable to the defendant by the Sheriff endorsing his name thereon, and such endorsement shall enable the plaintiff to bring action thereon in his own name against the parties who have executed it. The bond may be in the form in the Appendix in this Ordinance, with such variations as circumstances may require. (N. S. 571.)

321. A copy of such writ shall be served on the defen-

dant personally, or if he cannot be found, left at his usual or last place of abode, with his wife or some other grown-up person being a member of his family or household, or if no person resident then posted in a conspicuous place on the premises, or having no known residence posted up in the office of the Clerk who issued the writ; but such service or posting shall not be made until the Sheriff has replevied the property described in the writ, or such part thereof as can be found; and in case the said Sheriff or other officer has a good reason to suspect that the property to be replevied, or any part thereof, is secured, contained, or concealed in any dwelling house, building or enclosure of the defendant, or of any other person keeping or holding the same, and the said Sheriff or officer demands from the owner, occupier, or other person in charge of the premises aforesaid, deliverance of the said property, and the same shall not be delivered upon such demand, he may, and if necessary he shall (but only between sunrise and sunset) break open such premises and enter and search the same for the purpose of replevying the property demanded, and if found therein, replevy the same.

322. The Sheriff shall return the writ to the Clerk of the court whence it issued, with a statement of his doings thereon, and shall annex to the return of the writ:

- (1) The names, places of residence, and additions of the sureties in, and the date of the bond taken from the plaintiff, and the names of the witnesses thereto;
- (2) The number, quantity and quality of the articles of property replevied, and, in case he has replevied only a portion of the property mentioned in the writ, and cannot replevy the residue, he shall state in his return the articles which he cannot replevy, and the reason why not. (N. S. 574.)

INTERPLEADER.

323. Relief by way of interpleader may be granted,—

- (1) Where the person seeking relief, (in this Ordinance, called the applicant), is under liability for any debt money, goods, or chattels, for or in respect of which he is, or expects to be, sued by two or more parties, (in this Ordinance called the claimants), making adverse claims thereto;
- (2) Where the applicant is a Sheriff charged with the execution of process by or under the authority of the Court, and claim is made to any money, goods or chattels taken or intended to be taken in execution or attached under any process, or to the proceeds or value of any such goods or chattels by any person other than the person against whom the process issued. (E. 850.)

324. The applicant must satisfy the Court or Judge by affidavit or otherwise :

- (1) That the applicant claims no interest in the subject-matter or dispute, other than for charges or costs; and
- (2) That the applicant does not collude with any of the claimants; and
- (3) That the applicant is willing to pay or transfer the subject-matter into Court or to dispose of it as the Court or Judge may direct. (E. 851.)

325. The applicant shall not be disentitled to relief by reason only that the titles of the claimants have not a common origin, but are adverse to and independent of one another. (E. 852.)

326. When the applicant is a defendant, application for relief may be made at any time after service of the writ of summons. (E. 853.)

327. The applicant may take out a summons calling on the claimants to appear and state the nature and particulars of their claims, and either to maintain or relinquish them. (E. 854.)

328. If the application is made by a defendant in an action, the Court or Judge may stay all further proceedings in the action. (E. 855.)

329. If the claimants appear in pursuance of the summons, the Court or Judge may order either that any claimant be made a defendant in any action already commenced in respect of the subject-matter in dispute in lieu of or in addition to the applicant, or that an issue between the claimants be stated and tried; and, in the latter case, may direct which of the claimants is to be plaintiff and which defendant, as also the time and place for the trial of such issue. (E. 856.)

330. The Judge may, if it seems desirable so to do, dispose of the merits of their claims, and decide the same in a summary manner and on such terms as may be just. (E. 857.)

331. When the question is a question of law, and the facts are not in dispute, the Judge may either decide the question without directing the trial of an issue, or order that a special case be stated for the opinion of the Court. If a special case is stated the provisions herein relating to special cases shall, as far as applicable, apply thereto. (E. 858.)

332. If a claimant, having been duly served with a summons calling on him to appear and maintain, or relinquish

his claim, does not appear in pursuance of the summons, or, having appeared, neglects or refuses to comply with any order made after his appearance, the Court or Judge may make an order declaring him, and all persons claiming under him, for ever barred against the applicant, and persons claiming under him, but the order shall not affect the rights of the claimants as between themselves. (E. 859.)

333. In any interpleader proceeding, the decision of the Court or Judge shall be final and conclusive against the claimants, and all persons claiming under them, unless appeal lies. (E. 860 in part.)

334. When goods and chattels have been seized in execution or under attachment, by a sheriff, and any claimant alleges that he is entitled, under a bill of sale or otherwise, to the same, by way of security for debt, the Judge may order the sale of the whole or part thereof, and direct the application of the proceeds of the sale in such manner and upon such terms as may be just. (E. 861.)

335. The provisions of this Ordinance in respect to discovery and interrogatories shall with the necessary modifications apply in interpleader proceedings, and the Judge before whom the proceedings are had may finally dispose of the whole matter of the interpleader proceedings, including all costs not otherwise provided for. (E. 862 in part.)

336. In case the Sheriff has more than one writ, at the suit or instance of different parties, against the same property, it shall not be necessary for the Sheriff to make separate applications on such writs or in each case; but he may make one application, and make all the parties who are execution-creditors parties to the said application; and the Court or Judge before whom the application is made may make such order therein as if a separate application had been made upon and in respect of each writ. (R. S. M., 601.)

337. Pending the adjudication of any such claim, the Sheriff may, upon sufficient security being given to him by bond or otherwise, for the forthcoming and delivery to him of the property so taken, or the value thereof when demanded, permit the claimant to retain possession of the same until there shall be final adjudication in respect of the same; but in every such case it shall be competent for the said Sheriff or other officer, at any time he shall see fit, to resume the actual and absolute possession and custody of the said property, notwithstanding such bond or security. Horses, cattle, sheep, or any perishable goods, the subject of interpleader, may, at the request of either party and upon his furnishing sufficient security, or by order of the Judge, be sold by the seizing officer at public auction to the highest bidder, giving not less than ten days' notice of such sale, unless any of the articles are of such a nature as not to admit of that delay, in which case they may be sold forthwith.

LUNATICS.

338. The word "lunatic," in the subsequent sections of this Ordinance, shall include an idiot or other person of unsound mind. (R. S. O., 423.)

339. In the case of lunatics and their property and estates, the jurisdiction of the Court shall, subject to the following provisions, include that which in England is conferred upon the Lord Chancellor by a Commission from the Crown, under the Sign Manual. (R. S. O. 423.)

340. Proceedings in lunacy shall be by petition to the Judge, filed with the Clerk of the Court for that purpose, verified on oath, setting forth the grounds on which the application is made and the relation, connection of the petitioner to or with the alleged lunatic and his property and estate, as also a description and value of the same, separating real and personal estate. (R. S. M., chap. 58.)

341. Upon presentation of such petition, the Judge shall appoint a time and place at which he will hear the same, at which time and place (all necessary parties having been duly notified) the Judge shall enquire into the facts and hear such evidence under oath as may be adduced, and thereupon determine whether or not the person who is the subject of the enquiry is, at the time of such enquiry, of unsound mind, has property and is incapable of managing such property. (R. S. M. chap. 58.)

342. A copy of such petition and notice of the intended application shall be served on the alleged lunatic, unless such service be dispensed with by the Judge.

343. The Judge may order the issue of a Commission to take evidence to be used on any such hearing as in any ordinary suit in Court, and all depositions taken thereunder shall be received in evidence at the hearing, saving all just exceptions. (R. S. M. chap. 58.)

344. In case the Judge shall determine such person to be a lunatic and that he has property, the Judge shall forthwith order the appointment, under the seal of the Court, of one or more persons as guardian or guardians to his estate. (R. S. M. chap. 58.)

345. On every such enquiry the alleged lunatic, if he be within the jurisdiction of the Court, shall be produced and examined by the Judge, unless such examination be dispensed with. (R. S. M. chap. 58.)

346. The Judge may order the costs, charges and expenses of and incidental to proceedings in matters of lunacy to be paid either by the party presenting the petition or the party opposing the same (if opposition is made), or out of the estate, or partly one way and partly the other. (R. S. M. chap. 58.)



347. In every case, unless otherwise specially provided by order of the Judge, the following provisions shall be complied with :

- (1) The guardian of the estate shall, before receiving his appointment, furnish his own bond, together with those of two or more persons, approved of by the Judge, as sureties, in double the approximate value of the personal estate and of the annual value of the real estate, for duly accounting for the same, once in each year, or oftener if required by the Judge or Court, such bond to be in a form approved of by the Judge, to the Clerk of the Court and his successors in office, or legal assigns, which bond shall be filed in Court ;
- (2) The guardian of the estate shall, within six months after appointment, file in Court a true inventory of the whole real and personal property and estate of the lunatic, stating the income and profits thereof and setting forth the debts, credits and effects of the lunatic, so far as the same have come to the knowledge of the guardian ;
- (3) If any property belonging to the estate be discovered after the filing of the inventory, the guardian shall file a true account of the same from time to time, as the same is discovered ;
- (4) Every inventory shall be verified by the oath of the guardian, taken before the Judge or Clerk of the Court. (R. S. M. chap. 58.)

348. Whenever the personal estate of a lunatic is not sufficient for the discharge of his debts,

- (1) The guardian of the estate may apply by petition to the Judge for authority to mortgage or sell so much of the real estate as may be necessary for the payment of such debts ;

(2) Such petition shall set forth the particulars and amount of such estate, real and personal, of the lunatic, the application made of any personal estate, and an account of the debts and demands against the estate ;

(3) The Judge shall make or have made enquiries into the truth of the representations made in the petition, and hear all parties interested in the real estate ;

(4) If the Judge is satisfied, as the result of such enquiries, that the personal estate is not sufficient for the payment of the debts and that the same has been applied to that purpose as far as the circumstances of the case render proper, the Judge may order the real estate or a sufficient portion of it to be mortgaged or sold by the guardian, and the moneys thus raised shall be employed for the payment of the debts of the estate, and, if insufficient, shall be distributed in the same way as intestates' estates are distributed by law, the guardian having first provided a bond, with sureties, similar in terms to that required by sub-section 1 of section 347 of this Ordinance, for duly accounting for the proceeds so raised. [R. S. M. chap. 58.]

349. When the personal estate and the rents, profits and income of the real estate of the lunatic are insufficient for his maintenance or that of his family, or for the proper education of his children, or when for any other cause it shall appear desirable so to do, on application made by the guardian or by any member of the family of the insane person, the Judge may, after enquiry as hereinbefore provided in the case of debts, order the mortgaging or sale of the whole or part of the real estate of the lunatic by the guardian, the guardian having first provided a bond, with sureties, as required by the preceding section. [R. S. M. chap. 58.]

350. The Judge may order such fees to the Clerk of the Court and costs of and relating to any petition, order, direction and conveyance, including remuneration to the guardian, as he may consider reasonable to be paid and raised from the lands, rents or personal estate of the lunatic in respect of whom the same may be respectively incurred, made or caused. [R. S. M. chap. 58.]

351. On sufficient grounds shown, the Judge may remove a guardian and appoint another in his stead [R. S. M. chap. 58.]

352. In the proceedings aforesaid, the petitions and papers may be entitled as follows:

In the Supreme Court.

District.

In the matter of

A.B.

[R. S. M. chap. 58.]

#### GUARDIANSHIP OF INFANTS.

353. The Court may appoint guardians of infants (such infants not having a father living or any legal guardian authorized by law to take the care of their persons and the charge of their estates), and letters of appointment may be obtained as in the case of letters of administration; a record of every appointment or removal shall be made, and the like record thereof kept with the papers upon which the appointment and removal is made, in like manner, as near as may be, as in the case of probate and administration. (R. S. M. ch. 39.)

354. The Court or Judge may upon hearing the petition of the mother of an infant whose father is dead, appoint the mother or some other person to take the guardianship

of the person of the infant, notwithstanding any testamentary provisions to the contrary, or any appointment of another person as guardian by the father, if it shall appear just and proper; and may also make an order for the maintenance of the infant, by the payment out of any estate to which the infant is or shall be entitled, such sum or sums of money, from time to time, as, according to the value of the estate, such Court or Judge thinks just and reasonable. (R. S. M. ch. 39.)

355. The Court or Judge may give effect to the testamentary appointment by the mother of guardians of infant children, either as respects the person or estate, or one or both, notwithstanding the previous appointment of guardians by testament of the father of such infants, upon petitions presented and facts proved, if it shall seem advisable and in the interest of the infants to do so; and may make an order for the maintenance of the infants, as in the last preceding section mentioned. (R. S. M., ch. 39.)

356. Testamentary guardians and trustees may be removed for proper cause, the same as other guardians and trustees. (R. S. M. ch. 39.)

357. In all matters and applications touching or relating to the appointment of guardians, control or removal of guardians of any infants, and the security to be given by such guardians or otherwise, the Court or a Judge shall have full power and authority to summon and order the attendance of witnesses, and to order the examination of the same before the Court or Judge, and to order the production of deeds, writings and documents, and generally to enforce all orders, decrees and judgments, in such manner as shall seem expedient, according to the practice and procedure of the court in that behalf, and in such manner as the Court or Judge shall direct. (R. S. M. ch. 39.)

358. Upon the written application of any infant, or the friend or friends of any infant, and upon notice thereof to the mother of such infant, if living in the North-West Territories, the Court or Judge may, upon a proper case made out for that purpose, appoint some suitable and discreet person or persons to be guardian or guardians of such infant. (R. S. M. ch. 39.)

359. There shall be taken from the guardian or guardians appointed by the Court, a bond in the name of the infant or infants, in such penal sum, and with or without sureties, as the Court or Judge shall direct or approve, having regard to the circumstances of each case; and such bond shall be conditional that the said guardian or guardians shall and will faithfully perform the said trust, and that he or they, his or their executors or administrators, shall and will, when the said ward becomes of the full age of twenty-one years, or whenever thereunto required by the Court or any Judge render to his or their said ward, or his or their executors or administrators, a true and just account of all goods moneys, interest, rents, profits of property of such ward which have come, or which might but for his or their default have come into the hands of such guardian or guardians, and shall and will thereupon, without any delay, deliver and pay over to the said ward, or to his or her executors or administrators, the property or the sum or balance of money which may be in the hands of the said guardian or guardians, belonging to such ward, deducting therefrom and retaining a reasonable sum for the expenses and charges of the said guardian or guardians; and such bond shall be filed and recorded in the books in the office of the Clerk of the Court. (R. S. M. ch. 39.)

360. The guardian or guardians of any infant so appointed shall, during the continuance of his or their guardianship, have authority to act for and in behalf of his or their

ward; and shall have the charge and management of the estate, both real and personal, of the said ward; the care of the person and education of such ward; and in case the infant be under the age of fourteen years, may, with the approbation of two of Her Majesty's justices of the peace and the consent of such ward, or in case the infant be not under the age of fourteen years, then with the consent of the ward only, may place or bind him or her an apprentice to any lawful trade, profession or employment: such apprenticeship in the case of males not extending beyond the age of twenty-one years, and in the case of females, not beyond the age of eighteen years, or the marriage of the ward within that age. (R. S. M. ch. 39.)

361. The Court or Judge may, on proper cause being shown for that purpose, discharge any such ward from the apprenticeship in the last preceding section mentioned, and order the articles or instrument of apprenticeship to be delivered up to be cancelled, or make such other order in respect of the master or apprentice, or either of them, as shall, under the circumstances, appear to be proper and just; and may also, upon reasonable complaint made and sustained, remove any guardian or guardians of his or their guardianship; and, if it shall appear necessary, appoint another guardian or guardians in his or their stead. (R. S. M. ch. 35.)

362. Except as herein provided, the practice and procedure in respect of guardianship, and all questions relating thereto, shall conform, as nearly as the circumstances will admit, to the practice and procedure in England: Provided always, that the Court or Judge may in each case prescribe such practice and procedure as the circumstances of it may seem to require to carry out with facility and without expense the true intent and meaning of the premises. (R. S. M. ch. 35.)

CUSTODY OF INFANTS.

363. The Court or Judge, upon application by the mother of any infant being in the sole custody or the control of the father thereof, or of any other person by his authority, or of any other person without his authority, or of any guardian after the death of the father, may make an order for the access of the mother to such infant, at such times and subject to such regulations as the Court or Judge thinks convenient and just; and if such infant be within the age of twelve years, may make an order for the delivery of such infant into the custody and control of the mother, and there to remain for such time and under such conditions as the Court or Judge shall prescribe; and in disposing of any such application the Court or Judge may also make an order for the maintenance and education of such infant by payment by the father thereof, or by payment out of any estate to which such infant may be entitled, of such sum or sums of money, from time to time, as, according to the pecuniary circumstances of such father, or the value of such estate, the Court or Judge thinks just and reasonable. As a rule the father shall have the custody and control of his infant children; but it shall be lawful for the Court, or any Judge, on a proper case made for that purpose, to order any infant child or children to be delivered into the sole custody and control of the mother, on such conditions and subject to such regulations as the circumstances and facts of the case shall render proper, reasonable and just, wherever such child or children may be, or under whatever authority and control they may have been placed, any law, usage or custom to the contrary notwithstanding. (R. S. M. ch. 39.)

364. On the investigation of the facts on any application mentioned in the preceding sections, the Court or Judge may enforce the attendance of any person before the Court or judge, and take evidence under oath touching the matter of

the application, by rule or order made for that purpose ; and on failure of the person to attend for the purpose aforesaid, after notice of the rule or order in that behalf, to order that such person shall be committed for contempt of Court ; or may decide such application on affidavits received and filed or to be received and filed, or on the evidence taken *viva voce* and the said affidavits. (R. S. M. ch. 39.)

365. All orders and rules made by a Judge or by the Court, under any of the preceding sections of this Ordinance, may, in addition to all other remedies, be enforced by attachment or process for contempt by the Judge or by the Court, according as the same shall be made by a Judge or the Court. (R. S. M. ch. 39.)

366. No order directing that the mother shall have the custody of or access to an infant, shall be made in virtue of the preceding sections of this Ordinance in favor of a mother against whom adultery has been established, or to whom the custody and control of an infant could not be safely confided on account of improper conduct or habits of life. (R. S. M. ch. 39.)

#### ESTATE AND PROPERTY OF INFANTS.

367. When an infant is seized or possessed of, or entitled to any real estate in fee simple or for a term of years, or otherwise howsoever in the North-West Territories, and the Court or a Judge is of opinion that a sale, lease or other disposition of the same or of any part thereof, is expedient, necessary or proper, in the interest of the infant, or for the maintenance or education of the infant, or that by reason of any part of the property being exposed to waste and delapidation, or to depreciation from any other cause, satisfactory to the Court or Judge his interest requires or will be substantially promoted by such sale, lease or other disposition, the Court or Judge may order the sale, letting for a term of years, or other dis-



position of such real estate or any part thereof, to be made under the direction of the Court or Judge, or by the guardian of the infant, or by any person appointed for the purpose, in such manner and with such restrictions as may seem expedient: and may order the infant to convey or demise, or otherwise dispose of the estate as the Court or Judge thinks proper. (R. S. M. ch. 39.)

363. The application shall be made in the name of the infant by his next friend, or by his guardian; but shall not be made without the consent of the infant if he is of the age of seven years or upwards. [R. S. M. ch. 39.]

369. When the Court or Judge deems it convenient that a conveyance should be executed by some person in the place of the infant, the Court or Judge may direct some other person in the place of the infant to convey the estate. [R. S. M. ch. 39.]

370. Every such conveyance, whether executed by the infant or some person appointed to execute the same in his place, shall be as effectual as if the infant had executed the same, and had been of the age of twenty-one years at the time. [R. S. M. ch. 39.]

371. The moneys arising from any such sale, lease or other disposition shall be laid out, applied and disposed of in such manner as the Court or Judge directs. [R. S. M. ch. 39.]

372. On any sale, lease, or other disposition so made, the moneys so raised, or the securities taken or the surplus thereof, shall be of the same nature and character as the estate sold or disposed of, and the heirs, next of kin, or other representatives of the infant, shall have the like interest in any surplus which may remain of the proceeds at the decease of the infant as they would in the estate sold or disposed of if no sale or other disposition had been made thereof. (R. S. M., ch. 39.)

373. If any real estate of an infant is subject to any incumbrance, and the person entitled to such incumbrance, consents in writing to accept in lieu of such incumbrance, any gross sum of money which the Court or Judge thinks reasonable, or the permanent investment of a reasonable sum, of money in such manner that the interest thereof be made payable to the person entitled to such incumbrance during her or his life, the Court or Judge may direct the payment of such sum, or the investment of such other sum of money, out of the proceeds or other disposition of the real estate of the infant: Provided always, that it shall be competent for the Court or Judge in any case where the estate of the infant is subject to any lien or incumbrance of uncertain duration, to compute the reasonable value of the same, and to order the sale or other disposition of the estate of the infant freed or discharged from such incumbrance, and direct the payment of the value of such incumbrance out of the proceeds of the sale or other disposition of the real estate of the infant. [R. S. M. ch. 39.]

374. In any proceeding for the selling, letting or other disposition of the estate of an infant, it shall not be necessary that the infant shall appear in *propria persona* before the Court or Judge, unless so ordered; but the ground of the proceeding must be made out to the satisfaction of the Court or Judge before the application is granted. [R. S. M. ch. 39.]

375. In case of any sale or other disposition of any real estate of an infant under the provisions of this Ordinance, the interest and estate sold or otherwise disposed of may be conveyed to the purchaser by the vesting order of the Court, which shall be to all intents and purposes as effectual to pass the interest and estate so sold or disposed of, as a conveyance duly executed as provided in this Ordinance. [R. S. M. ch. 39.]

PROBATE.

376. The grant of probate of wills or letters of administration shall be made by the Court or Judge in the district in which the testator or intestate was residing at the time of his death, or in case of death outside the North-West Territories, the district within which the testator or intestate had, at his death, any property; and shall have effect over the estate of the deceased in all parts of the said Territories.

377. In the absence of any applications to prove a will, or for letters of administration within twenty days after the decease of any person leaving personal estate, letters of administration may be granted to any person possessing the necessary qualifications to execute the trust, and considered suitable by the Judge. (N.W.T.)

378. Every person to whom letters of administration or guardianship are committed shall give a bond to the Judge granting the same, with one or more sureties as may be required by the said Judge, in such form and in such penalty as he may direct, or in cases where the estate to be administered is of small value, such bond may be dispensed with. (N.W.T.)

MOTIONS AND OTHER APPLICATIONS.

379. Except on motions or applications for orders to show cause only, no motion shall be made without previous notice to the parties affected thereby. But the Court or a Judge, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief, may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court or Judge may think just; and any party affected by such order may move to set it aside or to vary it. [E. 698.]

380. Every notice of motion or application shall state in general terms the grounds of the application ; and where any such motion is founded on evidence by affidavit, a copy of any affidavit intended to be used shall be served with the notice of motion. [E. 699.]

381. Unless the Court or a Judge gives pecial leave to the contrary there must be at least two clear days between the service of a notice of motion and the day named in the notice for hearing the motion. [E. 700.]

382. If, on the hearing of a motion or other application, the Court or Judge shall be of opinion that any person to whom notice has not been given ought to have or to have had such notice, the Court or Judge may either dismiss the motion or application, or adjourn the hearing thereof, in order that such notice may be given, upon such terms, if any, as the Court or Judge may think fit to impose. [E. 701.]

383. The hearing of any motion or application may, from time to time, be adjourned, upon such terms, if any, as the Court or Judge shall think fit. [E. 702.]

384. The plaintiff shall, without any special leave, be at liberty to serve any notice of motion, or other notice, or any petition or summons upon any defendant, who, having been duly served with a writ of summons to appear, has not appeared within the time limited for that purpose. [E. 703.]

385. The plaintiff may, by leave of the Court or Judge to be obtained *ex parte*, serve any notice of motion upon any defendant, along with the writ of summons, or at any time after service of the writ or summons, and before the time limited for the appearance of such defendant. [E. 704.]

386. No order shall issue for the return of any writ, or

order, or to bring in the body of a person ordered to be attached, arrested or committed; but a notice from the person issuing the writ, or obtaining the order for attachment, arrest, replevin, or committal, (if not represented by an advocate), or by his advocate, calling upon the Sheriff to return such writ, or order, or to bring in the body within ten days, if not complied with, shall entitle such person to apply for an order for the committal of such Sheriff. [E. 706.)

387. Every order shall be dated the day of the month and year, on which the same was made, unless the Court or a Judge shall otherwise direct, and shall take effect accordingly. (E. 708.)

ACTION OF MANDAMUS.

388. The plaintiff, in any action in which he shall claim a mandamus to command the defendant to fulfil any duty, in the fulfilment of which the plaintiff is personally interested, shall include the demand in his claim annexed to the writ of summons. (E. 719.)

389. If judgment be given for the plaintiff, the Court or Judge may, by the judgment, command the defendant either forthwith, or on the expiration of such time and upon such terms as may appear to the Court or Judge to be just, to perform the duty in question. The Court or Judge may also extend the time for the performance of the duty. [E. 721.]

390. In the event of non-compliance with the judgment as aforesaid, the same may be enforced by prerogative mandamus as in England.

391. No action or proceeding shall be commenced or prosecuted against any person in respect of anything done in obedience to a writ of mandamus issued by the Court or Judge. [E. 730.]

APPLICATIONS AND PROCEEDINGS AT CHAMBERS.

392. Every application at Chambers not made *ex parte* or on notice, shall be made by summons. [E. 734.]

393. Every application for payment or transfer out of Court made *ex parte*, and every other application made *ex parte* in which the Judge thinks fit so to require, shall be made by summons. [E. 735.]

394. Summonses shall not be altered after they are signed, except upon application at chambers. [E. 736.]

395. Every summons, except an originating summons, shall be served two clear days before the return thereof, unless in any case it shall be otherwise ordered. [E. 737.]

396. Where any of the parties to a summons fail to attend, whether upon the return of the summons, or at any time appointed for the consideration or further consideration of the matter, the Judge, after waiting thirty minutes, may allow the case to proceed *ex parte*, if, considering the nature of the case, he think it expedient so to do; no affidavit of non-attendance shall be required or allowed, but the Judge may require such evidence of service as he may think just. [E. 738.]

397. When the case has been allowed to proceed *ex parte*, such proceeding shall not in any manner be reconsidered, unless the Judge shall be satisfied that the party failing to attend was not guilty of wilful delay or negligence; and in such case the costs occasioned by his non-attendance shall be in the discretion of the Judge, who may fix the same at the time, and direct them to be paid by the party or his advocate, before he shall be permitted to have such proceeding reconsidered, or make such order as to such costs as he may think just. [E. 739.]

398. When a proceeding in chambers fails by reason of

the non-attendance of any party, and the Judge does not think it expedient to allow *ex parte* proceeding, the Judge may order such an amount of costs (if any) as he shall think reasonable, to be paid to the party attending, by the absent party or by his advocate personally. [E. 740.]

399. When matters in respect of which summonses have been issued are not disposed of upon the return of the summons, the parties shall attend from time to time without further summons, at such time or times as may be appointed for the consideration or further consideration of the matter. [E. 741.]

400. The business to be disposed of by the Judge in chambers shall include the following matters, in addition to the matters which otherwise may be so disposed of :

- (1) Applications for payment or transfer to any person of any cash or securities, interest or dividends standing to the credit of any cause or matter where there has been a judgment or order declaring the rights, or when the title depends only upon proof of the identity, or the birth, marriage or death of any person ;
- (2) Applications as to guardianship and maintenance of infants ;
- (3) Applications connected with the management of property ;
- (4) Applications for or relating to the sale by auction or private contract of property, and as to the manner in which the sale is to be conducted, and for payment into Court and investment of the purchase money ;
- (5) Applications for orders for the distribution of assets of absconding debtors or for the distribution of the

estate of an intestate, or for the distribution of a fund among creditors ;

(6) Applications for time to plead for leave to amend pleadings, for discovery and production of documents, and generally all applications relating to the conduct of any cause or matter. [E. 764 in part ]

(7) Revision of taxation of costs by Clerk, within fifteen days from taxation.

401. The executors or administrators of a deceased person and the trustees under deed or instrument, or any of them, and any person claiming to be interested in the relief sought as creditor, devisee, legatee, next of kin, or heir at law of a deceased person, or as *cestui que trust* under the trust of any deed or instrument or as claiming by assignment or otherwise under such creditor or other person as aforesaid, may, apply for and obtain from the Judge a summons returnable before him in chambers, at such time as he may appoint,

(1) For the administration of the estate of the deceased ;

(2) The administration of the trust ;

(3) The determination of any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee, next of kin, or heir at law, or *cestui que trust* :

(4) The ascertainment of any class of creditors, legatees, devisees, next of kin or others ;

(5) The furnishing and vouching of any particular accounts by executors, administrators or trustees ;

(6) The payment into Court of any money in the hands of executors, administrators or trustees ;



(7) Directing the executors or administrators or trustees to do, or abstain from doing, any particular act in their character as executors, administrators or trustees;

(8) The approval of any sale, purchase, compromise or other transaction;

(9) The determination of any question arising in the administration of the estate or trust. [E. 765 & 766.]

Provided that proceedings under this section shall not interfere with or control any power or discretion vested in any executor, administrator or trustee, except so far as such interference or control may necessarily be involved in the particular relief sought. [E. 774.]

402. The summons shall be served upon such persons as the Judge may direct.

403. The application shall be supported by such evidence as the Judge may require. [E. 769.]

404. Upon the return of the summons and hearing all parties directed to be served with the same, the Judge may pronounce such judgment and make such orders as the nature of the case requires. [E. 770.]

405. The Judge may give any special directions, touching the carriage or execution of the judgment or order or the service thereof upon persons not parties, as he may think proper. [E. 771.]

406. The Judge may, in such way as he may think fit, obtain the assistance of accountants, merchants, engineers and other scientific persons, the better to enable any matter

at once to be determined, and he may act upon the certificate of any such person. [E. 781.]

407. Where a judgment or order is given or made, directing an account of debts, claims or liabilities, or an inquiry for heirs, next of kin, or other unascertained persons, unless otherwise ordered, all persons who do not come in and prove their claims within the time which may be fixed for that purpose by advertisement, shall be excluded from the benefit of the judgment or order. [E. 806.]

408. At any time during proceedings at chambers under any judgment or order, the Judge may, if he shall think fit, appoint a guardian *ad litem* for an infant, or person of unsound mind not already so found, who has been served with notice of such judgment or order.

COURT IN BANC.

409. There shall be two regular sittings of the Supreme Court *in banc* in each year, one to commence at 10 o'clock a.m. on the first Mondays in June and in December respectively. The sittings may be adjourned from time to time, as may be necessary.

410. If on any of the days appointed for the sittings of the court *in banc* a sufficient number of Judges to constitute a quorum have not arrived, the senior Judge present shall make such adjournment as he may think proper.

411. No judgment given or order made by the Court or a Judge, by the consent of parties, or as to costs only, which by law are left to the discretion of the Court or Judge shall be subject to any appeal, except by leave of the Court or Judge, giving the judgment or making the order. (O. 32.)

412. No appeal shall lie from the judgment or order of the Court presided over by a single Judge, or a Judge of

the Court to the Court *in banc*, without the special leave of the Judge or Court whose judgment or order is in question, unless the title to real estate, or some interest therein, or the validity of a patent is affected, or unless the matter in controversy on the appeal, in matters of contract exceeds the sum of five hundred dollars, and in matters of torts exceeds the sum of two hundred dollars exclusive of costs; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights. (O. 33.)

413. No application to the Court *in banc* whether for new trials, or appeals, or motions in the nature of appeals, shall be entertained, unless the party interested shall, within fifteen days after the giving of the judgment moved against or appealed from, have deposited in the Court two hundred dollars as security for costs on such application, and filed a copy of the notice of motion.

414. Applications to the Court *in banc* shall be by way of re-hearing, and shall be brought by notice of motion, in a summary way, and no petition, case, or other formal proceeding, other than such notice of motion, shall be necessary. In appeals, or motions in the nature of appeals, the appellant may, by the notice of motion, appeal from the whole, or any part of any judgment or order, and the notice of motion shall state whether the whole, or part only of such judgment or order is complained of, and, in the latter case, shall specify such part, and such notice of motion shall state the grounds on which such application is based. [E. 865.]

415. The notice of motion shall be served within fifteen days after the trial, where the application is for a new trial and after judgment in appeals, but the Court or Judge

may either before or after the expiration of that period enlarge the time for giving notice.

416. The notice may be amended at any time by leave of the Court or a Judge, on such terms as the Court or Judge thinks just. (E. 555.)

417. In appeals, or motions in the nature of appeals, the notice of appeal shall be served on all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected; but the Court may direct notice of the appeal to be served on all or any parties to the action or other proceeding, or upon any person not a party, and in the meantime may postpone or adjourn the hearing of the appeal, upon such terms as may be just, and may give such judgment, and make such order as might have been given or made if the persons served with such notice had been original parties. Any notice of appeal may be amended, as the Court may think fit. [E. 866.]

418. On appeal, the Court shall have, in addition to all the powers and duties as to amendment, full discretionary powers to receive further evidence on questions of facts, as to matters which have occurred after the date of the decision from which the appeal is brought, by affidavit, or by deposition, taken before an examiner or commissioner; such further evidence shall be admitted on special grounds only, and not without special leave of the Court. The Court shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been made, and to make such further or other order as the case may require. The powers aforesaid may be exercised by the Court, notwithstanding that the notice of appeal may be that part only of the decision may be reversed or varied, and such powers may also be exercised in favor of all or any of the respondents or parties, although such respondents or

parties may not have appealed from or complained of the decision. The Court shall have power to make such order as to the whole or any part of the costs of the appeal as may be just. [E. 868 in part.]

419. A new trial shall not be granted on the ground of misdirection, or of the improper admission or rejection of evidence, or because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to them, unless in the opinion of the Court to which the application is made some substantial wrong or miscarriage has been thereby occasioned in the trial; and if it appear to such Court that such wrong or miscarriage affects part only of the matter in controversy, or some or one only of the parties, the Court may give final judgment as to part thereof, or some or one only of the parties, and direct a new trial as to the other part only, or as to the other party or parties. (E. 556.)

420. A new trial may be ordered on any question, whatever be the grounds for the new trial, without interfering with the finding or decision upon any other question. (E. 557.)

421. When notice of motion for a new trial has been served, the further proceedings on the verdict, finding, or judgment may be stayed, in whole, or in part, until the decision on such motion, by the Court or by the Judge who presided at the trial, on such terms as the Court or Judge may think fit. The applicant, however, shall be entitled to an order so staying the proceedings on filing sufficient bail, or security, or making deposit of money, to the approval of the Court or Judge, in such reasonable amount as the Court or Judge shall direct, to respond the judgment to be finally given in the cause or matter. An application to the Judge for such stay of proceedings shall not prejudice the applicant's right to apply to the Court for such stay. (N. S. 466.)

422. When any question of fact is involved in an appeal or application for a new trial, the evidence taken in the Court below, or by the Judge appealed from, bearing on such question, shall, subject to any special order, be brought before the Court as follows :

(1) As to any evidence taken by affidavit, by the production of copies of such affidavits ;

(2) As to any evidence given orally, by the production of copies of the Judge's notes, or such other material as the Court may deem expedient. (E. 875 )

423. No interlocutory order, or rule, shall operate so as to bar or prejudice the Court from giving such decision on the appeal as may be just. (E. 878.)

424. No notice of appeal shall operate as a stay of execution or of proceedings, under the decision appealed from, or objected to, except so far as the Judge appealed from, or the Court, may order, and no intermediate act or proceeding shall be invalidated, except so far as the Court may direct. Such deposit or other security shall be made or given as may be directed by the Court or Judge, otherwise the motion of appeal shall not be heard but be dismissed. [E. 880, in part ]

425. When any application ought to be made to, or any jurisdiction exercised, or any act done by the Judge by whom a cause or matter has been tried or heard, if such Judge die or cease to be a Judge of the Court, or if for any other reason it shall be impossible or inconvenient that such Judge should act in the matter, the presiding Judge may, either by a special order in any cause or matter, or by a general order applicable to any class of causes or matters, nominate some other Judge to whom such applications may be made, or by whom such jurisdiction may be exercised. [E. 885.]

426. A judgment, order, decision, rule, or verdict appealed from, or sought to be set aside, shall stand as if no notice of appeal, or notice of motion to set the same aside had been made or given, if the cause or matter in which the same was made or given be not entered for argument on the first entry day after such notice, or if the motion of which such notice has been given be not made when the cause or matter is called, unless such default in the moving party be waived by the other parties interested, or unless the Court shall otherwise order. [N. S. 779.]

COSTS.

427. Subject to the provisions of this Ordinance, the costs of and incident to all proceedings in the Supreme Court, including the administration of estates and trusts, shall be in the discretion of the Court or Judge: Provided that nothing herein contained shall deprive an executor, administrator, trustee or mortgagee who, has not unreasonably instituted or carried on or resisted any proceedings, of any right to costs out of a particular estate or fund to which he would otherwise be entitled.

428. Provided also that generally in any action, cause or matter, the costs shall follow the event, unless the Judge before whom the same is heard or tried, or the Court shall for good cause otherwise order. [E. 976.]

429. When the plaintiff in any action resides out of the North-West Territories, and the defendant, by affidavit of himself or his agent, alleges that he has a good defence on the merits to the action, the defendant shall be entitled to an order requiring the plaintiff, within three months (or such other and further time as the Court or Judge may deem right), from the service of the order, to give security for the defendant's costs, and staying all further proceedings in the meantime, and directing that in default of such

security being given the action be dismissed with costs, unless the Court or Judge, on special application for that purpose shall otherwise order. [O. 431.]

430. In any cause or matter in which security for costs is required, the security shall be of such amount, and be given at such times and in such manner and form, as the Court or Judge shall direct. (E. 981.)

431. Where a bond is to be given as security for costs, it shall, unless the Court or Judge shall otherwise direct, be given to the party or person requiring the security, and not to an officer of the Court. [E. 982.]

432. Where the Court or Judge appoints one of the advocates of the Court to be guardian *ad litem* of an infant or person of unsound mind, the Court or Judge may direct that the costs to be incurred in the performance of the duties of such office shall be borne and paid either by the parties, or some one or more of the parties, to the cause or matter in which such appointment is made, or out of any fund in Court in which such infant or person of unsound mind may be interested, and may give directions for the repayment or allowance of such costs as the justice and circumstances of the case may require. [E. 988.]

433. In all cases, as also upon interlocutory applications, when the Judge awards costs to any party, he may direct payment of a sum in gross in lieu of taxed costs, and by and to whom such sum in gross shall be paid.

#### FEES.

434. Each clerk shall be entitled to receive and take the fees prescribed in the "tariff of clerks' fees" appended to this Ordinance, for the services therein named; and for any necessary services performed not therein prescribed, such fees as may be authorized by the Judge.



435. Each Sheriff shall be entitled to receive and take the fees prescribed in the "tariff of sheriff's fees" appended to this Ordinance, for the services therein named.

436. A copy of the tariff of clerk's and sheriff's fees shall be posted in some conspicuous place in the clerk's and sheriff's offices respectively.

437. Witnesses, jurors, and interpreters, and parties, shall be entitled to the fees and remuneration named in the "tariff of witness, jurors' and interpreter's fees" appended to this Ordinance.

438. All fees and allowances respectively payable under the said tariff shall be paid in advance by the parties at whose instance the service is to be rendered, but in cases where the amounts are impossible of ascertainment for any reason, then an amount approximated by the officer or fixed by the Judge shall be deposited or paid, to be accounted for when the correct amount is ascertained.

439. In all causes and matters in which duly enrolled advocates, holding certificates as such, are employed, they shall be entitled to charge, and be allowed the fees in the "Advocates' Tariff" appended to this Ordinance.

440. The Court *in banc* may, by order, regulate fees for services performed by the registrars and other officers of the Court, as also fees to counsel, and advocates practising therein.

441. In every contested case, each party shall, on the settling of the issues to be tried, as provided by this Ordinance, pay in to the Clerk when the amount in dispute is under fifty dollars, one dollar; and in all other cases, two dollars; such sums to be accounted for and paid monthly to the Lieutenant-Governor to form part of the general

revenue fund of the North-West Territories; and the Lieutenant-Governor is hereby empowered, out of the said fund to pay to the Sheriffs and Clerks respectively the sum of five dollars for every day, as certified by a Judge, they have attended a regular Court.

#### FORMS.

442. The forms contained in the Appendix to this Ordinance shall be used in and for the purposes of the Clerk's office, with such variations as circumstances may require; and as to all other matters the forms used in the administration of civil justice in England, as provided by "The Rules of the Supreme Court, 1883," are hereby adopted, with such variations as will make them respectively applicable to proceedings in the Supreme Court of the North-West Territories, whether *in banc* or otherwise.

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#### MISCELLANEOUS.

##### ACTIONS AGAINST PUBLIC OFFICERS.

443. All actions and prosecutions to be commenced against any person for anything purporting to be done in pursuance of his duty as a public officer (unless otherwise ordered by the Judge) shall be commenced and tried in the district wherein the act was committed, and must be commenced within six months next after the act was committed, and not otherwise, and notice in writing of such action and of the cause thereof must be given to the defendant one month at least before the commencement of the action.

444. If in any cause or matter relating to any real estate, in respect of which the Court has power to order a sale, it shall appear necessary or expedient that the real estate or

any part thereof, should be sold, the Court or a Judge may order the same to be sold, in such way and on such terms as may be considered proper, and any party bound by the order and in possession of the estate, or in receipt of the rent and profits thereof, shall be compelled to deliver up such possession or receipt to the purchaser, or such other person as may be thereby directed. (E. 680.)

ADMINISTRATOR AD LITEM.

445. Where no probate of the Will of a deceased person or letters of administration to his estate have been granted, and representation of such estate is required in any action or proceeding in Court, the Judge may appoint some person administrator *ad litem*, according as the case may require, to the estate, and the person so appointed shall give such security, if not dispensed with, as the Judge may require, and have *pendente lite*, as the case may be, the rights, authorities, and responsibility of an administrator, as in other cases.

ALIAS, PLURIES, AND CONCURRENT WRITS.

446. The expiry of any writ or process without service or execution shall not abate the suit, but the suit may be continued by the issue of *alias* or *pluries*, writs or processes as may be necessary, and concurrent writs of summons may always be issued.

COMMISSIONERS FOR TAKING AFFIDAVITS.

447. All duly enrolled advocates of the North-West Territories shall be commissioners for taking affidavits in the said Territories; and the Lieutenant-Governor may by commission appoint such and so many persons as he thinks proper within and without the Territories to be commissioners for the like purpose.

DEPUTY-CLERKS.

443. In addition to the powers vested by law in the Clerks to appoint a deputy, in any sections of country where the convenience of the public may be the better served, the Clerk, with the approval of the Judge, may also appoint a deputy, who, being supplied with blank forms of original and *mesne* processes signed by the Clerk, may issue the same under his direction from time to time, such deputy countersigning each one so issued and making returns of all processes so issued to the Clerk, as required by the Clerk or as directed by the Judge, and, in such cases, the Clerk and his sureties shall be responsible for all the acts and omission of the deputy.

JURISDICTION.

449. Suits shall be entered, and, unless otherwise ordered, tried in the Court holden in the judicial district where the cause of action arose, or in which the defendant, or one of several defendants, resides or carries on business at the time the action is brought.

LAWS OF EVIDENCE.

450. Subject to the provisions of any Act of the Parliament of Canada, and of this Ordinance, the laws of evidence which govern the administration of civil justice in England shall obtain in the Courts.

MINORS.

451. Minors may sue for wages in the same way as if of full age.

SITTINGS ADJOURNED.

452. Whenever from illness or other casualty, the Judge

who should hold a sitting of the Court fails to attend at the time appointed therefor, the Clerk, at three o'clock in the afternoon of the day so appointed, shall adjourn such sitting by proclamation to some hour on the following day to be by him named, and so on from day to day (but not exceeding three days) until the Judge who is to hold such sitting as aforesaid is able to hold the same, or until he receives other directions from such Judge; but if after the expiration of the said period of three days the said Judge has not arrived, or be still unable to attend, or he be otherwise directed, the Clerk shall adjourn the Court to the next regular sitting of the same, and report his action thereon to the Lieutenant-Governor.

SERVICE OF PLEADINGS, ETC., ETC.

453. Service of pleadings, notices, summonses, orders, rules and other proceedings, except writs of summons, attachment and replevin, shall be effected before six o'clock in the afternoon. Service effected after six o'clock in the afternoon, shall, for the purpose of computing any period of time subsequent to such service, be deemed to have been effected on the following day, and on Saturdays the following Monday. [E. 971. in part.]

454. In any case in which any number of days, not expressed to be clear days, is prescribed in this Ordinance, the same shall be reckoned exclusively of the first day and inclusively of the last day. [E. 972.]

SEALS.

455. Until the proper seal for each Court, as required by law, is procured, all processes may be issued without any seal whatever, and shall have the same force, virtue, and legality as if sealed.

PROCEDURE IN CASES NOT PROVIDED.

456. When no other provision is made by this Ordinance, the procedure and practice existing in England, on the first day of January, A.D. 1885, shall (adapted to the circumstances of the Territories) be followed, as nearly as may be.

INTERPRETATION OF TERMS.

457. In the construction of this Ordinance, unless there is anything in the subject or context repugnant thereto, the several words hereinafter mentioned or referred to shall have or include the meaning following:

- (1) "Originating Summons" means a summons by which proceedings are commenced without writ;
- (2) "Receiver" includes consignee or manager appointed by or under an order of the Court;
- (3) "Sheriff" includes deputy-sheriff, duly-appointed bailiffs, coroner, and other person discharging the duties of sheriff in the particular case, or for the time being;
- (4) "Plaintiff," "Defendant," "Party," "Person," include bodies politic or corporate holding the relation of plaintiff, defendant or party.

458. Whenever in any Ordinance of the Lieutenant-Governor of the North-West Territories in Council the words "Clerk of the District Court" or "High Court of Justice" are used, the same shall hereafter mean Clerk of the Supreme Court.

ORDINANCES REPEALED.

459. Except as aforesaid, all Courts established by Ordinance, and existing for the administration of civil

justice in the North-West Territories, are hereby abolished, and Ordinances No. 4 of 1878, No. 7 of 1879, No. 3 of 1883, No. 3 of 1884, and No. 5 of 1885, are hereby repealed and declared to be and remain repealed: Provided that all proceedings had, taken, and all things lawfully done under the enactments hereby repealed, shall remain valid unless otherwise provided by this Ordinance; Provided also that this repeal shall not affect any duty accrued, right acquired, or liability incurred under any of the said Ordinances; And provided further that records of Courts in the North-West Territories, by whatever name known, shall be records of Courts established under this Ordinance.

SHORT TITLE.

460. This Ordinance may be cited as "The Judicature Ordinance 1886."

APPENDIX.

CLERK'S AND SHERIFF'S OATH OF OFFICE.

I, \_\_\_\_\_ do swear that I will truly and faithfully perform the several duties of Clerk of the Supreme Court of the North-West Territories, \_\_\_\_\_ District, or Sheriff of the Judicial District to which I have been appointed, without fear, favor, or malice. So help me God.

Sworn to, before me, at \_\_\_\_\_ }  
in the North-West Territories, this  
day of \_\_\_\_\_ A.D. 18 \_\_\_\_\_ }

WRIT OF SUMMONS.

In the Supreme Court of the North-West Territories,

Between

and

District.

Plaintiff,

Defendant.

Victoria (or the name of the reigning Sovereign as the case may be), by the Grace of GOD of the United Kingdom of Great Britain and Ireland, QUEEN, (or as the case may be), Defender of the Faith, &c, &c., &c.

To the above-named Defendant :

You are notified that the plaintiff has entered an action against you. in the above named Court, for the recovery of the claim or demand, a statement of which is filed in Court and annexed to this summons.

And you are commanded that if you dispute the said claim, either in whole or part, you do, within ten days from the service of this writ on you, exclusive of the day of such service, cause to be entered for you, in the office of the Clerk of this Court, an appearance, together with a statement of the grounds on which such dispute is based.

And take notice, that in default of your so doing, the plaintiff may proceed in his said action, and judgment may be given in your absence and without further notice to you.

Issued at  
day of

the  
A.D. 18

*Memoranda to be endorsed on writ.*

N.B.—This writ is to be served within twelve months from the date thereof, or if renewed within six months from the day of the last renewal, including the day of such date, and not afterwards.

This writ was issued by the plaintiff, who resides at and (if residence over three miles from the Clerk's office) whose "Address for Service" is at

Or, This writ was issued by of advocate for the plaintiff, whose "Address for Service (if the advocate's office is over three miles from the Clerk's office) is at

#### WRIT OF ATTACHMENT.

In the Supreme Court of the North-west Territories,  
Between

District.  
Plaintiff,

and

Defendant.

VICTORIA, (or the name of the reigning Sovereign, as the case may be,) by the Grace of GOD of the United Kingdom, of Great Britain and Ireland, QUEEN, (or as the case may be) Defender of the Faith, etc.

To the Sheriff of the

District.

You are commanded to attach, seize and safely keep all the personal estate, credits and effects, together with all evidences of title, debts, books and book accounts, or other documents, vouchers or papers belonging thereto or otherwise, of the above-named defendant, to secure and satisfy the plaintiff the sum of , with his costs of action, and to satisfy the debt and demand of such other creditors of the said defendant as shall duly (within the time allowed by law) sue out their writs of attachment and prosecute the same to judgment.



And we command you, the said Sheriff, that so soon as you shall have executed this Writ you do return the same with an affidavit of service, and a certificate of your action thereunder.

Issued at                      this                      day of                      A.D. 18

Clerk of the Court.

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WRIT OF REPLEVIN.

In the Supreme Court of the North-West Territories,

District.

Between

and

Plaintiff,

Defendant.

VICTORIA, (or the name of the reigning Sovereign, as the case may be,) by the Grace of GOD of the United Kingdom of Great Britain and Ireland, QUEEN (or as the case may be), Defender of the Faith, etc., etc.

To the Sheriff of the

District.

You are hereby commanded without delay to cause to be replevied to the plaintiff his goods, chattels, and personal property following, that is to say:

                    which the said                      alleges to be of the value of  
dollars, and which the defendant hath taken and unjustly detains (or unjustly detains as the case may be) as it is said, in order that the said plaintiff may have his just remedy in that behalf.

Issued at                      in the North-West Territories,  
this                      day of                      A.D. 18

Clerk of the Court.

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BOND FOR REPLEVIN.

Know all men by these presents, that we A. B., of

E. F., of

and G. H., of

are jointly and severally held and firmly bound to the Sheriff of the                      District, in the sum of                      dollars of lawful money, to be paid to the said Sheriff, his successor in office or either of their assigns. For which payment well and truly to be made, we bind ourselves, and each and every of us in the whole, our and every of our heirs, executors and administrators, firmly by these presents, sealed with our seals, dated this                      of                      one thousand eight hundred and

Whereas the said A. B. has obtained a Writ of Replevin against C. D. to obtain possession of certain cattle (or goods) to wit:  
which the said A. B. asserts to be his property.

Now, the condition of this obligation is such, that if the said A. B. shall not prosecute his suit in which the said writ is issued with effect and without delay, or if suit is carried on and continued between the said A. B. and C. D. touching the property of the said cattle (or goods) and the Court shall adjudge that the said cattle (or goods) shall be restored to the said C. D. with damages for detaining the same, then if the said A. B. shall restore the said cattle (or goods) and pay and satisfy any judgment that may be obtained against him, this bond shall become void.

Signed, sealed and delivered	}	L. S.
in the presence of		L. S.
		L. S.

*(When the plaintiff himself does not join in the bond, the form must be altered to conform to the fact.)*

# WRIT OF EXECUTION.

In the Supreme Court of the North-West Territories,	District
Between	Plaintiff,
and	Defendant.

VICTORIA, (or the name of the reigning Sovereign, as the case may be,) by the Grace of GOD of the United Kingdom of Great Britain and Ireland, QUEEN (or as the case may be), Defender of the Faith, etc., etc.

To the Sheriff of the District.

You are commanded that of the goods (or lands, as the case may be) of \_\_\_\_\_ in the \_\_\_\_\_ Judicial District, you cause to be made \_\_\_\_\_ dollars and \_\_\_\_\_ cents, which

\_\_\_\_\_ lately by the judgment (or order, as the case may be,) of the said Court recovered against him and that you have the said money, and in what manner you shall have executed this writ make appear to the said Court at \_\_\_\_\_ immediately after the execution thereof, before the said Court at \_\_\_\_\_ together with this writ, immediately after the execution thereof.

Issued at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 18

Clerk of Court.

GARNISHEE SUMMONS.

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IN THE SUPREME COURT OF THE NORTH-WEST TERRITORIES.

JUDICIAL DISTRICT.

Between

Plaintiff,

and

Defendant,

and

Garnishee.

You are hereby notified that a Suit has been entered in this Court in which the Plaintiff claims of the Defendant the sum of  
as shown by his statement of claim  
filed in Court, a copy of which is hereto annexed, or, you are hereby notified that the Plaintiff has recovered a Judgment in this Court against the Defendant, for \$  
and it is alleged, on affidavit filed, that you are indebted to the said Defendant.

And you are required, within ten days from the service hereof, to appear at the Clerk's Office, and state in writing whether or not you owe any, and if so, what debt to the Defendant, and why you should not pay the same into Court to the extent of the Plaintiff's claim.

Issued at  
day of

this  
A.D.

To be Indorsed same as a Writ of Summons.—No. 1, 2 or 3.

## ADVOCATE'S FEES.

## GENERAL TARIFF.

## INSTRUCTIONS.

	Higher Scale.	Lower Scale.
1. To sue in undefended cases	2 00	1 50
2. To sue in defended cases	3 00	2 00
3. To defend	2 00	1 50
4. For pleadings to be allowed only once to the same party	1 50	75
5. For counter-claim, when such claim could not heretofore form the subject of a set off	2 00	1 00
6. For reply to such counter-claim	2 00	1 00
7. To amend any pleading when such amendment proper	2 00	1 00
8. For special case	2 00	1 00
9. To add parties by order of Court or Judge	2 00	1 00
10. To add parties in consequence of death, marriage, assignment, etc.	1 00	50
11. To defend added parties	2 00	1 00
12. For issues of fact	2 00	1 00
13. For every suggestion	1 00	50
14. For brief	2 00	1 00
15. To counsel in special matters	2 00	1 00
16. " " common matters	2 00	50
17. For special affidavits when allowed by Clerk	1 00	50
18. For such other important step or proceeding in the suit, as the Clerk or a Judge is satisfied, warrants such charges	1 00	1 00

## WRITS.

19. All writs except subpoenas, concurrent and renewed writs	2 00	1 00
20. Concurrent, or renewed writs	2 00	1 50
21. Subpoenas ad testificandum	1 00	50
22. Subpoenas duces tecum	1 25	75
23. If writ over four folios, additional per folio	20	10
24. For each copy of writ	1 00	50
25. If over four folios, additional per folio	10	10
26. Service of each copy of writ when taxable to the advocate	1 00	50
27. For every mile necessarily travelled, in effecting such service	10	10
28. For service out of the jurisdiction, such allowance as the Clerk or a Judge shall think fit		

## DRAWING PLEADINGS, Etc.

29. Statement of claim or defence	2 00	1 00
30. For every folio above 5, in addition	20	20
31. Statement of defence and counter-claim	3 00	1 50
32. For every folio above 10, in addition	20	20
33. Reply and other pleadings for or on behalf of a plaintiff or defendant	2 00	1 00
34-35. For every folio above 5, in addition	20	20
36. Appearance, including attendance to enter	1 00	50
37. Petitions, issues for trial of fact by consent or order, special cases, interrogatories and cross-interrogatories and answers thereto, bill of costs and all other original documents required in any suit or proceeding including engrossing, per folio	20	20

## COPIES.

38. Of pleadings, briefs and other documents where no provision made, and such copies necessary, per folio	10	10
39. Of special and common Orders of Court	50	40
40. If over 4 folios per folio in addition	10	10
41. Of summons or order of a judge	50	25
42. If over 3 folios, per folio in addition	10	10

## NOTICES.

43. In action for recovery of land, of defence for part of premises when necessary	1 00	50
44. If above 3 folios, per folio in addition	20	20
Notice by defendant to third party under sections 44 and 45	1 00	50

	Higher Scale.	Lower Scale.
45. All common notices and demands .....	20	10
46. If over 3 folios, per folio additional .....	20	10
PERUSALS.		
47. Of each pleading as defined by this Ordinance .....	1 00	50
48. Of special case or issue of fact, taxable to advocate of any party except the advocate by whom it is prepared.	2 00	1 00
49. Of Interrogatories or Cross-Interrogatories.....	1 00	50
50. Of affidavits and exhibits of a party adverse in interest or produced on any application, where they exceed twenty folios, and where perusal necessary per folio, over 20 folios. ....	50	20
(Not in any case to exceed \$5.00.)		
ATTENDANCES.		
51. Necessary attendances consequent upon service of notice to produce or admit or inspection of documents when produced, including making admissions. ....	1 00	50
52. For summons in Chambers .....	1 00	50
53. Attending on return of summons before Judge .....	1 00	50
54. To be increased in the discretion of a Judge to \$2.00 .....	2 00	1 00
55. A consultation or conference with counsel in special and important matters in the discretion of a Clerk or a Judge.....	2 00	1 00
56. Advocate attending Court on trial of cause when not himself counsel or partner of counsel.	2 00	1 00
57. To hear judgment when not given at the close of the argument. ....	2 00	1 00
58. On taxation of costs .....	1 00	50
59. For every hour after the first .....	1 00	50
60. To obtain or give undertaking to appear when service of summons accepted by advocate.....	1 00	50
61. Attendance on warrant or appointment before Judge, Clerk, or Examiner, per hour .....	1 00	50
62. Attendance in special matters, or on examination of witnesses, per hour .....	2 00	1 00
63. Attendance to file or serve .....	50	25
64. Every other necessary attendance.....	50	25
BRIEFS.		
65. For drawing Brief not exceeding 5 folios .....	2 00	1 00
66. For every additional folio of original and necessary matter. ....	20	10
67. Copies of documents, per folio .....	10	10
68. Copy of Brief for second Counsel, when fee taxed to him, per folio....	10	10
AFFIDAVITS.		
69. Drawing Affidavits, per folio.....	20	10
70. Engrossing same, per folio .....	10	10
71. Copies when necessary, per folio .....	10	10
72. Common affidavits of service, and of non-appearance .....	1 00	50
73. Commissioner, or Notary, for each oath .....	25	25
74. do. do. for each Exhibit.....	10	10
75. Advocate for preparing each Exhibit .....	10	10
JUDGMENT RULES, ORDERS, Etc.		
76. Fee on every judgment or order .....	1 00	50
77. Fee on every certified copy of pleadings when necessary .....	1 00	50
78. Fee on judgment in mortgage cases for foreclosure or sale .....	1 00	1 00
79. Drawing judgment or order or minutes thereof when prepared by the Advocate, per folio .....	20	20
LETTERS.		
80. Letter to each defendant before suit, one letter to be allowed to any defendants who are partners where suit relates to the partnership matters .....	50	25
81. Common letters, including necessary agency letters.....	50	25
82. Postage—the amount expended therefor.....		

## COUNSEL FEES.

	Higher Scale.	Lower Scale.
83. Fee on motion of course, or in matters not special.	10 00	5 00
84. Fee on special applications and motions. To be increased in the discretion of a Judge.	5 00	3 00
85. Fee on argument, or supporting, or opposing application to the Court, or a Judge, on argument of demurrer, special case motion for new trial, or appeal.	10 00	5 00
To be increased in the discretion of a Judge.		
86. Fee with brief on assessment.	10 00	5 00
87. Fee with brief at trial.	10 00	5 00
To be increased at the discretion of a Judge, provided that not more than one counsel fee shall be allowed, in any case not of a special and important nature, and not more than two in any case.		
88. Fee attending upon references to Clerk or other person, or upon examination of witnesses, or when taking evidence under order or commission, where attendance of counsel necessary.	5 00	3 00
To be increased in the discretion of a Judge in special and important cases.		
89. On settling pleadings, interrogatories, special cases, or petitions, and advising on evidence in the discretion of a Judge, not exceeding.	5 00	

## SALES BY ORDER OF THE COURT.

90. Drawing advertisement.	2 00	1 00
If over 5 folios, for each folio additional.	20	20
91. Copies per folio.	10	10
92. Each necessary attendance on printer.	50	25
93. Revising proof.	1 00	50
94. Attending to settle advertisement.	1 00	50
95. Attending to make arrangements with auctioneer.	1 00	50
96. Fee on conducting sale when held where advocate resides.	5 00	3 00
97. If advocate engaged for more than three hours, each additional hour.	1 00	50
98. Fee on conducting sale elsewhere, when advocate attends with approval of Judge, in addition to necessary travelling and hotel expenses. For each day necessarily absent in attending such sale.	10 00	

99. When it has been proved to the satisfaction of a Judge, that proceedings have been taken by advocates to expedite proceedings, save costs, or in compromising actions, an allowance is to be made in the discretion of such Judge.

1. The lower scale of costs in the foregoing tariff shall apply to all cases in which the amount claimed, or the value of the property in dispute, or the value or amount of the plaintiff's interest therein, as the case may be, does not exceed Two hundred dollars; and the higher scale shall apply in all other cases except as is hereinafter otherwise provided.

2. If the plaintiff in any action, claims more than two hundred dollars, and upon the trial, or other determination of such action, shall be found entitled only to a sum, or value less than two hundred dollars, he shall not be entitled to costs in the higher scale, except where the amount of his claim has been reduced below two hundred dollars by set off, or counter-claim, but where a defendant in any such action becomes entitled to tax costs against the plaintiff, such defendant shall be entitled to costs in the higher scale.

3. If the plaintiff's claim in any action does not exceed two hundred dollars in amount or value, and the defendant by his counter claim, claims from the plaintiff a sum or value exceeding two hundred dollars, the action shall thereafter proceed under the higher scale, but such defendant shall not be entitled to costs in the higher scale, unless he has shown to be entitled in respect of such counter claim, to an amount or value exceeding two hundred dollars.

4. The Court or a Judge may, in their or his discretion, direct that the costs of any party or parties shall be taxed either in the higher or lower scale as against any other party or parties, or that a lump sum shall be paid to any party

in lieu of costs, and may adjust the costs as between all or any of the parties by way of deduction or set off, and may direct that no costs shall be taxed or allowed to any party or parties who would otherwise be entitled thereto.

#### SPECIAL TARIFF FOR LIQUIDATED CLAIMS.

Where claims sued for are for debts or liquidated demands, in which advocates are employed, the following scale of advocates' fees shall apply, unless otherwise ordered by a Judge, and be taxable to Plaintiff, recoverable from Defendants.

Where the claim sued for is undefended, and the judgment entered is for \$50.00 and under, the advocates' fee shall be a lump sum of \$5.00; where it exceeds \$50.00, a lump fee equal to ten per cent. on the amount recovered, up to \$200.00, and five per cent. for all excess over \$200.00 up to \$500.00, from \$500.00 to \$1000.00, two per cent. and one per cent. beyond that amount; and in defended cases, in addition to the above, such a Counsel fee not exceeding \$100.00, as may be certified as fair by a Judge.

In cases where the debt sued for is settled after writ and before appearance, the advocates' fee recoverable from and payable by the defendant, shall be one-half of the above.

If the Plaintiff fail and the Defendant succeed in the action, such a Counsel-fee as may be approved by the Judge, not exceeding \$100.00, and a lump sum for advocates' costs based on the amount of the Plaintiffs claim, equal to one half of what would be allowed the plaintiff if he recovered, shall be allowed the defendant.

If a defendant recover on a counter-claim or set off, advocates' fees on same scale as allowed plaintiffs shall be allowed the defendant, based upon the amount proved at the trial as his due. In all cases Clerks', Sheriffs' or service fees, allowed by a Judge, to be added.

#### SHERIFF'S FEES.

	Class A.	Class B.
For receiving, entering, indorsing and returning every summons, writ and other process issued out of a Court, and order or other document signed by a Judge requiring service .....	75	50
For service of the above (except summons to jury and subpoena) upon each defendant, or party to be served, including affidavit of service .....	75	50
For service of summons, on each juror, and service of subpoena on each person named therein .....	50	50
For every arrest under warrant, bond required to be taken to the sheriff for securing goods attached, indemnity or other purposes .....	2 00	2 00
For assignment of replevin bond .....	1 00	1 00
For executing every writ of possession or restitution .....	4 00	2 00
For delivering goods replevied to a plaintiff .....	4 00	2 00
For every search (not being by a party to the cause) .....	50	30
For every certificate of search (when required) .....	50	50
For seizing estate or effects under attachment or execution .....	2 00	1 00
For notice of sale of goods (including copies) .....	75	50
For notice sale of lands (including copies) .....	1 00	1 00
For every notice of postponement .....	50	25
For every schedule of goods taken in execution or seized under attachment, including copy for party whose goods are taken or seized (when not exceeding 500 words) .....	1 00	1 00
Every 100 words over 500 .....	20	20
For making every affidavit (other than of service) besides fee paid out for oath .....	50	50
For mileage for every mile necessarily travelled and sworn to, in serving and executing summons, writs and other processes and papers of every description from the place where the same are severally received or the Sheriff's Office (whichever is nearest) to the place of service or execution, as aforesaid, and return .....	10	10
But when railway can be and is used, half the above.		

For poundage on executions and attachments in the nature of executions when the sum realized shall not exceed \$400, 5 per cent.

Do. when the sum realized is over \$400 and does not exceed \$4000, five per cent. for the \$400, 2½ per cent. for the balance up to \$4000, and when the sum realized is over \$4000, 1½ per cent. for the balance.

Besides such sum as may be actually disbursed for advertising in such case when required by law. And such sums for care and removal of property seized or taken, as may be approved (in each case) by the Court or a Judge.

For drawing up advertisement when required by law to be published or posted up including necessary copies . . . . . 1 00 1 00

For bringing up prisoner on attachment or *habeas corpus*, besides travel at 20 cents per mile . . . . . 1 50 1 00

For mileage in any case where the hire of means of transportation other than that of railway is necessary, such sum in addition to the ordinary charge for mileage, as the Court or a Judge may allow.

The fees in each instance to be payable in advance by the party at whose instance the service is required to be performed, or an amount approximated by the Sheriff to be deposited.

The Class A to apply to all matters in which the claim made exceeds \$100; and proceedings by interpleader, replevin, garnishments, or for the recovery of possession of real estate.

The Class B to apply to claims other than mentioned in Class A.

#### WITNESSES AND JURORS.

Witnesses and jurors may be allowed the following fees:—

For every day necessarily absent from residence, in going to, staying at, and returning from trial . . . . .	\$	1 00
When residence within two miles of place of trial . . . . .		2 00
When over two miles . . . . .		10
For every mile necessarily travelled by other means than railway . . . . .		
When railway used, actual fare paid . . . . .		
Professional men when acting professionally, in addition to mileage as other witnesses, per day . . . . .		5 00

#### INTERPRETERS.

Interpreters may, when used, be allowed the same mileage as witnesses, and for each day actually engaged as interpreters . . . . . 2 00

#### CLERK'S FEES.

	Up to 100	From 100 to 200	Over 200
	\$ c.	\$ c.	\$ c.
1. Receiving and entering in docket every claim for suit . . . . .	25	50	75
2. Preparing and issuing summons or other original process, garnishee and interpleader summons, writs of replevin or attachment, and delivering same for service or execution . . . . .	1 00	2 00	3 00
3. Each copy of above when required . . . . .	25	50	75
4. Each copy of claim when not provided by party applying for process, and 10 cents per folio of 100 words, if over two folios . . . . .	25	40	60
5. Entering any appearance or dispute . . . . .	50	1 00	2 00
6. Entering every judgment or verdict . . . . .	1 00	2 00	3 00
7. Taxation of costs . . . . .	50	1 00	2 00
Every hour after the first hour . . . . .	1 00	1 50	2 00
8. Every <i>venue</i> for Jury . . . . .			3 00
9. Every original subpoena . . . . .	50	1 00	1 50
10. Every copy of subpoena when required . . . . .	15	30	40
11. Every filing . . . . .	10	10	10
12. Every summons to show cause . . . . .	25	50	75
13. Every Judge's order . . . . .	50	75	1 00
14. Every execution or other final process, or renewal thereof . . . . .	75	1 50	2 00
If over three folios per folio in addition . . . . .	10	20	20
15. Every search . . . . .	25	25	25
16. Every search by person not a party to suit . . . . .	50	50	50



17. Examining every affidavit necessary for the issue of process ..	50	1 00	1 50
18. Every commission or exemplification of judgment ..	50	1 00	2 00
If over five folios, per folio ..	10	10	10
19. Setting down cause for trial or argument ..	50	1 00	2 00
20. Taking accounts under Judge's order, or reference or examina-			
tion of witnesses, per hour ..	1 00	1 50	2 00
21. Every appointment ..	10	20	30
22. Every affidavit ..	25	25	25
23. Every certificate, with or without seal of Court ..	50	1 00	1 00
24. Certifying five appeal books ..			10 0
Copies of evidence or papers filed, per folio ..	10	10	10

In cases for recovery of land or where title to land is in question, as also interpleader cases instituted by parties other than the Sheriff or officer acting under process, unless otherwise ordered by the Judge who tried the case, the highest scale is to apply; and in Interpleader by the Sheriff or officer acting under process, to be regulated by the amount of the plaintiffs claim, or judgment.

IN GARNISHEE PROCEEDINGS the scale of fees chargeable to be ascertained by the amount of the primary creditor's claim or judgment.

IN REPLEVIN by the value of the property sought to be replevied, as sworn to by or on behalf of the plaintiff.

Allowance for other services to be specially fixed by a Judge, taking the general Tariff of Clerk's Fees as guide.

#### PROBATE FEES TO CLERK OF COURT.

On every Grant of Probate, Letters of Administration or Guardianship, including Filing of Record, all papers preparing Probate or Letters presenting to Judge, and getting signed and recording same.

When property devolving is \$500 and under ..	\$5 00
"                   \$1,000 and over \$500 ..	7 50
Oyer \$1000 ..	10 00
Searches and Certificates, each ..	0 50

#### FEES ALLOWED JUDGE.

On every grant of Probate or Administration, when property devolving is	
under \$1000 ..	\$5 00
For each additional \$1000 ..	2 00
Every appointment of Guardian ..	4 00

**No. 3 of 1886**

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AN ORDINANCE RESPECTING THE INCORPORATION OF JOINT-STOCK COMPANIES BY LETTERS PATENT.

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*Passed 16th November 1886.*

Be it enacted by the Lieutenant Governor of the North-West Territories, in Council, as follows :

SHORT TITLE.

1. This Ordinance may be cited as "The Companies' Ordinance."

INTERPRETATION.

2. In this Ordinance, and in all Letters Patent, and Supplementary Letters Patent issued under it, unless the context otherwise requires :

- (1.) The expression, "The Company," means the Company incorporated by Letters Patent under this Ordinance;
- (2.) The expression, "the undertaking," means the business of every kind which the Company is authorized to carry on ;
- (3.) The expression, "real estate," or "land," includes messuages, lands, tenements and hereditaments of any tenure, and all immovable property of any kind
- (4.) The expression, "Shareholder," means every subscriber to or holder of stock in the Company, and includes the personal representatives of the Shareholder.

LETTERS PATENT.

3. The Lieutenant-Governor may, by Letters Patent, under the Seal of the North-West Territories, grant a Charter to any number of persons, not less than three, who petition therefor, constituting such persons and others who thereafter become Shareholders in the Company thereby created, a body corporate and politic, for any of the purposes or objects to which the legislative authority of the Council, or the Legislative Assembly, as the case may be, of the North-West Territories extend.

4. The applicants for such Letters Patent must advertise, by notice published at least once in the North-West Territories Gazette and in three consecutive weekly issues of any newspaper published at or nearest the place which is to be the chief business place of the Company, their intention to apply for the same, stating in such notice :

- (1.) The proposed corporate name of the Company, which shall not be that of any other known Company, incorporated or unincorporated, or any name liable to be unfairly confounded therewith, or otherwise, on public grounds objectionable ;
- (2.) The object for which the incorporation is sought ;
- (3.) The place within the North-West Territories, which is to be its chief place of business ;
- (4.) The proposed amount of its capital stock ;
- (5.) The number of shares, and the amount of each share ;
- (6.) The names in full and the address and calling of each of the applicants, with special mention of the names of not less than three, nor more than nine, of their number who are to be the first or provisional Directors of the Company, the majority of whom shall be residents of Canada.

5. At any time, not more than two months after the last publication of such notice, the applicants may petition the Lieutenant-Governor for the issue of such Letters Patent.

6. Such petition shall set forth :

(1.) The facts contained in the notice;

(2.) The amount of stock taken by each applicant, and the amount paid in upon the stock of each applicant, as also the manner in which the same has been paid in, and is held for the Company.

7. The aggregate of the stock so taken shall be at least the one half of the total amount of the proposed capital stock of the Company.

8. The aggregate paid in on the aggregate stock so taken shall be at least ten per cent, and shall be paid in to the credit of the Company, or trustees therefor, and shall be standing at such credit in some chartered Bank of Canada, unless the object of the Company is one requiring that it should own real estate, in which case any portion not exceeding one half of such aggregate may be taken as paid in if it is *bona fide* invested in real estate, suitable to such object, which is duly held by Trustees for the Company, and is of the required value, over and above all incumbrances thereon.

9. The petition may ask for the embodying in the Letters Patent of any provision which otherwise under the provisions hereof might be embodied in any by-law of the company when incorporated; and such provision so embodied shall not, unless provision to the contrary is made in the Letters Patent, be subject to repeal or alteration by by-law.

10. Before the Letters Patent are issued, the applicants must establish to the satisfaction of the Lieutenant-Governor the sufficiency of their notice and petition, and the truth and sufficiency of the facts therein set forth, and that the pro-

posed name is not the name of any other known incorporated or unincorporated Company, and to that end the Lieutenant-Governor shall take and keep of record any requisite evidence in writing under oath, affirmation or solemn declaration.

11. The Letters Patent shall recite all the material averments of the notice and petition as so established.

12. The Lieutenant-Governor in Council may give to the Company a corporate name, different from that proposed by the applicants, in their published notice, if the proposed name is objectionable.

SUPPLEMENTARY LETTERS PATENT.

13. If it is made to appear to the satisfaction of the Lieutenant-Governor, that the name of any Company (whether given by the original or by supplementary Letters Patent, or on amalgamation) incorporated under this Ordinance, is the same as the name of an existing incorporated or unincorporated company, or so similar thereto as to be liable to be confounded therewith, the Lieutenant-Governor may direct the issue of a supplementary Letters Patent, reciting the former letters and changing the name of the company to some other name, which shall be set forth in the supplementary Letters Patent.

14. When a Company incorporated under this Ordinance is desirous of adopting another name, the Lieutenant-Governor, upon being satisfied that the change desired is not for any improper purpose, may direct the issue of supplementary Letters Patent, reciting the former Letters Patent, and changing the name of the Company to some other name which shall be set forth in the supplementary Letters Patent.

15. No alteration of its name under the two sections next preceding shall affect the rights or obligations of the Company, and all proceedings may be continued or commenced

by or against the Company under its new name that might have been continued or commenced by or against the company under its former name.

16. Notice of the granting of every original and supplementary Letters Patent, under the provisions of this Ordinance, shall be forthwith given in the *North-West Territories Gazette* in the form of schedule A or B, as the case may be, appended to this Ordinance, and thereupon from the date of the Letters Patent, the persons therein named, and their successors, shall be a body corporate and politic by the name mentioned therein.

OBTAINING OF FURTHER POWERS.

17. The Company may, from time to time, by a resolution passed by the votes of shareholders representing at least two-thirds in value of the subscribed stock of the Company, at a special general meeting called for the purpose, authorize the Directors to apply for supplementary Letters Patent, extending the powers of the Company to such other purposes or objects, within the province of this Ordinance as may be defined in the resolution.

18. The Directors may, at any time within six months after the passing of any such resolution, petition the Lieutenant-Governor for the issue of such supplementary Letters Patent.

19. The applicants for such supplementary Letters Patent shall give in at least one issue of the *North-West Territories Gazette* and one issue of a local newspaper published at or nearest the chief place of business of the Company, notice of their intention to apply for the same, stating therein the purposes or objects to which it is desired to extend the powers of the Company.

20. Before such supplementary Letters Patent are issued, the applicants shall establish to the satisfaction of the

Lieutenant-Governor, the due passing of the resolution authorizing the application, and the sufficiency of their notice and petition; and for that purpose the Lieutenant-Governor shall cause to be taken and kept of record of any requisite evidence in writing, by oath or affirmation, or by solemn declaration.

21. Upon due proof so made, the Lieutenant-Governor may grant supplementary Letters Patent under the seal of the North-West Territories, extending the powers of the Company to all or any of the objects defined in the resolution; and notice thereof shall be forthwith given by the Lieutenant-Governor, in the North-West Territories *Gazette*, in the Form C in the Schedule to this Ordinance, and thereupon, from the date of the supplementary Letters Patent, the undertaking of the Company shall extend to and include the other purposes or objects set out in the supplementary Letters Patent as fully as if such other purposes or objects were mentioned in the original Letters Patent; and a copy of every such notice shall forthwith be, by the Company to which the notice relates, inserted on at least four separate occasions in the newspaper published nearest to where the head office or chief agency is established.

INCREASE OR REDUCTION OF CAPITAL, ETC.

22. The directors of the Company may, at any time make a by-law sub-dividing the existing shares into shares of a smaller amount.

23. The directors of the Company may, at any time after the whole capital stock of the Company has been taken up and fifty per cent. thereof paid in, make a by-law for increasing the capital stock of the Company to any amount which they consider requisite for the due carrying out of the objects of the Company.

24. Such by-law shall declare the number of the shares of the new stock, and may prescribe the manner in which the same shall be allotted; and in default of its so doing, the control of such allotment shall vest absolutely in the directors.

25. The directors of the Company may, at any time, make a by-law for reducing the capital stock of the Company to any amount which they consider advisable and sufficient for the due carrying out of the undertaking of the Company; but the capital stock of a loan company shall never be reduced to less than one hundred thousand dollars

(2) Such by-law shall declare the number and value of the shares of the stock as so reduced, and the allotment thereof, or the manner in which the same shall be made;

(3) The liability of shareholders to persons who were, at the time of the reduction of the capital, creditors of the Company, shall remain the same as if the capital had not been reduced.

26. No by-law for increasing or reducing the capital stock of the Company, or for sub-dividing the shares, shall have any force or effect whatsoever, until it is approved by the votes of shareholders, representing at least two-thirds in value of all the subscribed stock of the Company, at a special general meeting of the Company, duly called for considering the same, and afterwards confirmed by supplementary Letters Patent.

27. At any time not more than six months after such sanction of such by-law, the directors may petition the Lieutenant-Governor for the issue of supplementary Letters Patent to confirm the same;



- (2) The Directors shall, with such petition, produce a copy of such by-law, under the seal of the Company, and signed by the President, Vice-President or Secretary, and establish to the satisfaction of the Lieutenant-Governor the due passage and approval of such by-law, and the expediency and *bona fide* character of the increase or reduction of capital or sub-division of shares, as the case may be, thereby provided for;
- (3) The Lieutenant-Governor shall, for that purpose, cause to be taken and kept of record, any requisite evidence in writing, by oath or affirmation, or by solemn declaration, as above mentioned.

28. Upon due proof so made, the Lieutenant-Governor may grant such supplementary letters patent, under the Seal of the North-West Territories; and notice thereof shall be forthwith given by the Lieutenant-Governor in the North-West Territories *Gazette*, in the form D. in the schedule to this Ordinance; and thereupon, from the date of the supplementary Letters Patent, the capital stock of the Company shall be and remain increased or reduced, or the shares shall be sub-divided, as the case may be, to the amount, in the manner and subject to the conditions set forth by such by-law; and the whole of the stock, as so increased or reduced shall become subject to the provisions of this Ordinance in like manner, as far as possible, as if every part thereof had been or formed part of the stock of the Company originally subscribed.

#### POWER OF THE COMPANY.

29. All powers given to the Company by the Letters Patent or supplementary Letters Patent, shall be exercised subject to the provisions and restrictions contained in this Ordinance.

30. Every Company incorporated under this Ordinance, may acquire, hold, sell and convey, any real estate requisite for the carrying on of the undertaking of such company, and shall forthwith become and be invested with all property and rights, real and personal, theretofore held by or for it under any trust created with a view to its incorporation, and with all the powers, privileges and immunities requisite or incidental to the carrying on of its undertaking, as if it was incorporated by a special Ordinance, embodying the provisions hereof and of the Letters Patent.

CAPITAL STOCK.

31. The Stock of the Company shall be personal estate, and shall be transferable; in such manner, and subject to all such conditions and restrictions as are prescribed by this Ordinance or by the Letters Patent or by by-laws of the Company.

32. If the Letters Patent, or the supplementary Letters Patent, make no other definite provision, the stock of the Company, or any increased amount thereof, so far as it is not allotted thereby, shall be allotted at such times and in such manner as the Directors prescribe by by-law.

33. Every share in the Company shall, subject to the provisions of Section Eight of this Ordinance, be deemed to have been issued and to be held subject to the payment of the whole amount thereof in cash, unless the same has been otherwise agreed upon or determined by a contract duly made in writing and filed with the Lieutenant-Governor, at or before the issue of such share.

DIRECTORS.

34. The affairs of the Company shall be managed by a Board of not more than nine and not less than three directors.

35. The persons named as such in the Letters Patent, shall be the Directors of the Company, until replaced by others duly appointed in their stead.

36. No person shall be elected or appointed as a Director thereafter unless he is a shareholder, owning stock absolutely in his own right, and to the amount required by the by-laws of the Company, and not in arrear in respect of any call thereon; and at all times the majority of the directors of the Company shall be persons resident in Canada.

37. The Company may, by by-law, increase to not more than fifteen, or decrease to not less than three, the number of its directors, or may change the Company's chief place of business in the North-West Territories; but no by-law for either of the said purposes shall be valid or acted upon unless it is approved by a vote of at least two-thirds in value of the stock represented by the shareholders present at a special general meeting duly called for considering the by-law; nor until a copy of such by-law, certified under the seal of the Company, has been deposited with the Lieutenant-Governor, and has also been published in the *North-West Territories Gazette*.

38. Directors of the Company shall be elected by the shareholders, in general meeting of the Company assembled, in some place within the North-West Territories, at such times, in such manner, and for such term, not exceeding two years, as the letters patent, or, in default thereof, as the by-laws of the Company prescribe.

39. In the absence of other provisions in such behalf, in the Letters Patent or by-laws of the Company:—

- (a) The election of directors shall take place yearly, and all the directors then in office shall retire, but if otherwise qualified they shall be eligible for re-election;

- (b) Notice of the time and place for holding general meetings of the Company shall be given at least twenty-one days previously thereto, in some newspaper published in the place where the head office or chief place of business of the Company is situate, or if there is no such newspaper, then in the place nearest thereto in which a newspaper is published ;
- (c) At all general meetings of the Company every shareholder shall be entitled to give one vote for each share then held by him ; such votes may be given in person or by proxy,—the holder of any such proxy being himself a shareholder ; but no shareholder shall be entitled, either in person or by proxy, to vote at any meeting unless he has paid all the calls then payable upon all the shares held by him. All questions proposed for the consideration of the shareholders shall be determined by the majority of votes, the chairman presiding at such meeting having the casting vote in case of an equality of votes ;
- (d) Every election of directors shall be by ballot ;
- (e) Vacancies occurring in the board of directors may be filled, for the remainder of the term, by the directors from among the qualified shareholders of the Company ;
- (f) The directors shall, from time to time, elect from among themselves a president and, if they see fit, a vice-president of the Company, and may also appoint all other officers thereof.

40. If, at any time, an election of directors is not made, or does not take effect at the proper time, the Company shall not be held to be thereby dissolved ; but such election

may take place at any subsequent general meeting of the Company duly called for that purpose; and the retiring directors shall continue in office until their successors are elected.

POWERS OF DIRECTORS.

41. The Directors of the Company may administer the affairs of the Company in all things, and make or cause to be made for the Company, any description of contract which the Company, may, by law, enter into; and may from time to time, make by-laws not contrary to law, or to the Letters Patent of the Company, or to this Ordinance, for the following purposes:

- (a) The regulating of the allotment of stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of stock, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock;
- (b) The declaration and payment of dividends;
- (c) The number of the directors, their term of service, the amount of their stock qualification, and their remuneration, if any;
- (d) The appointment, functions, duties and removal of all agents, officers and servants of the Company, the security to be given by them to the Company, and their remuneration;
- (e) The time and place for the holding of the annual meetings of the Company, the calling of meetings, regular and special, of the board of directors and of the Company, the quorum, the requirements as to proxies, and the procedure in all things at such meetings;

(f) The imposition and recovery of all penalties and forfeitures which admit of regulation by by-law ;

(g) The conduct, in all other particulars, of the affairs of the Company ;

And the directors may, from time to time, repeal, amend or re-enact the same ; but every such by-law, and every repeal, amendment, or re-enactment thereof, unless in the meantime confirmed at a general meeting of the Company, duly called for that purpose, shall only have force until the next annual meeting of the Company, and in default of confirmation thereat, shall, at and from that time only, cease to have force ;

42. No by-law for the issue, allotment or sale of any portion of the unissued stock at any greater discount or at any less premium than that which has been previously authorized at a general meeting, and no by-law for the remuneration of the president or any director, shall be valid or acted upon until the same has been confirmed at a general meeting.

43. The directors may deduct from the dividends payable to any shareholder, all such sums of money as are due from him to the Company on account of calls or otherwise.

44. The directors may, when authorized by a by-law for that purpose, passed and approved of by the votes of shareholders, representing at least two-thirds in value of the subscribed stock of the Company represented at a special general meeting duly called for considering the by-law ;

(a) Borrow money upon the credit of the Company, and issue bonds, debentures or other securities for any sums borrowed, at such prices as are deemed necessary or expedient ; but no such debentures shall

be for a less sum than one hundred dollars ; hypothecate or pledge the real or personal property of the Company, to secure any sums borrowed by the Company ; but the amount borrowed shall not, at any time, be greater than seventy-five per cent. of the actual paid-up stock of the Company, but the limitation made by this section shall not apply to commercial paper discounted by the Company.

CALLS.

45. The directors may, from time to time, make such calls upon the shareholders in respect of all moneys unpaid upon their respective shares, as they think fit, at such times and places, and in such payments or instalments as the Letters Patent, or this Ordinance, or the by-laws of the Company require or allow.

46. A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed ; and if a shareholder fails to pay any call due by him, on or before the day appointed for the payment thereof, he shall be liable to pay interest for the same, at the rate of six per cent. per annum, from the day appointed for payment to the time of actual payment thereof.

47. The directors may, if they think fit, receive from any shareholder willing to advance the same, all or any part of the amounts due on the shares held by such shareholder, beyond the sums then actually called for ; and upon the moneys so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect of which such advance is made, the Company may pay interest at such rate, not exceeding eight per cent. per annum, as the shareholder who pays such sum in advance and the directors agree upon.

48. If, after such demand or notice as is prescribed by the Letters Patent or by the by-laws of the Company, any call made upon any share is not paid within such time as, by such Letters Patent or by the by-laws, is limited in that behalf, the directors in their discretion, by vote to that effect duly recorded in their minutes, may summarily declare forfeited any shares whereon such payment is not made; and the same shall thereupon become the property of the Company, and may be disposed of as, by the by-laws of the Company or otherwise, they prescribe; but, notwithstanding such forfeiture, the holder of such shares at the time of forfeiture shall continue liable to the then creditors of the Company for the full amount unpaid on such shares at the time of forfeiture, less any sums which are subsequently received by the Company in respect thereof.

49. The directors may, if they see fit, instead of declaring forfeited any share or shares, enforce payment of all calls and interest thereon, by action in any court of competent jurisdiction; and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount in respect of one call or more, upon one share or more, stating the number of calls and the amount of each call, whereby an action has accrued to the Company under this Ordinance; and a certificate under their seal, and purporting to be signed by any officer of the Company, to the effect that the defendant is a shareholder, that such call or calls has or have been made, and that so much is due by him and unpaid thereon, shall be received in all courts as *prima facie* evidence thereof.

#### BOOKS OF THE COMPANY.

50. The Company shall cause a book or books to be kept



by the secretary, or by some other officer specially charged with that duty, wherein shall be kept recorded :—

- (a) A copy of the Letters Patent incorporating the Company, and of any supplementary Letters Patent, and of all by-laws thereof ;
  - (b) The names, alphabetically arranged, of all persons who are or have been shareholders ;
  - (c) The address and calling of every such person, while such shareholder ;
  - (d) The number of shares of stock held by each shareholder ;
  - (e) The amount paid in and remaining unpaid, respectively, on the stock of each shareholder ;
  - (f) The names, addresses and calling of all persons who are or have been directors of the Company, with the several dates at which each became or ceased to be such director ;
2. A book called the register of transfers shall be provided, and in such book shall be entered the particulars of every transfer of shares in the capital of the Company.

51. Such books shall, during reasonable business hours of every day, except Sundays and holidays, be kept open for the inspection of shareholders and creditors of the Company and their personal representatives, at the head office or chief place of business of the Company, and every such shareholder, creditor, or personal representative may make extracts therefrom.

52. Every director, officer or servant of the Company,

who knowingly makes or assists in making any untrue entry in any such book, or who refuses or wilfully neglects to make any proper entry therein, or to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, shall be liable on conviction summarily before a Judge exercising criminal jurisdiction in the Territories, to a fine not exceeding five hundred dollars.

53. Every Company which neglects to keep such book or books as aforesaid, shall forfeit its corporate rights.

54. Such books shall be *prima facie* evidence of all facts purporting to be thereby stated, in any action, suit or proceeding against the Company or against any shareholder.

#### TRANSFER OF SHARES.

55. No transfer of shares, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction, shall be valid for any purpose whatever, until entry thereof is duly made in the register of transfers, except for the purpose of exhibiting the rights of the parties thereto towards each other, and of rendering the transferee liable, in the meantime, jointly and severally, with the transferor, to the Company and its creditors.

56. No transfer of shares, whereof the whole amount has not been paid in, shall be made without the consent of the directors; and whenever any transfer of shares not fully paid in has been made with such consent, to a person who is not apparently of sufficient means to fully pay up such shares, the directors shall be jointly and severally liable to the creditors of the Company, in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been; but if any director present when any such transfer is allowed does forthwith, or if any director then absent does, within twenty-four-hours after he becomes aware thereof, and is able so to do, enter on the minute book of the board of directors his protest against the

same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the Company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto; such director may thereby, and not otherwise, exonerate himself from such liability.

57. Whenever the interest in any shares of the capital stock of the Company is transmitted by the death of any shareholder or otherwise, or whenever the ownership of or legal right of possession in any share changes by any lawful means, other than by transfer according to the provisions of this Ordinance, and the directors of the Company entertain reasonable doubts as to the legality of any claim to such shares, the Company may make and file in the Supreme Court of the district in which the head office of the Company is situated, a declaration and petition in writing, addressed to the Judge of the Court, setting forth the facts and the number of shares previously belonging to the person in whose name such shares stand in the books of the Company and praying for an order or judgment adjudicating and awarding the said shares to the person or persons legally entitled to the same, by which order or judgment the Company shall be guided and held fully harmless and indemnified and released from every other claim to the said shares or arising in respect thereof.

58. Notice of the intention to present such petition shall be given to the person claiming such shares, or to the advocate of such person duly authorized for the purpose, who shall, upon the filing of such petition, establish his right to the shares referred to in such petition; and the time to plead and all other proceedings in such cases shall be the same as those observed in analogous cases before the said Supreme Court: Provided always, that the costs and

expenses of procuring such order or judgment shall be paid by the person or persons to whom such shares are declared lawfully to belong; and that such shares shall not be transferred in the books of the Company until such costs and expenses are paid, saving the recourse of such person against any person contesting his right to such shares.

59. No share shall be transferable until all previous calls thereon are fully paid in.

60. The directors may decline to register any transfer of shares belonging to any shareholder who is indebted to the Company.

61. Any transfer of the shares or other interest of a deceased shareholder, made by his personal representative, shall, notwithstanding such personal representative is not himself a shareholder, be of the same validity as if he had been a shareholder at the time of his execution of the instrument of transfer.

#### LIABILITY OF SHAREHOLDERS.

62. The shareholders of the Company shall not, as such, be responsible for any act, default or liability of the Company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the Company, beyond the amount unpaid on their respective shares in the capital stock thereof.

63. Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the Company to an amount equal to that not paid up thereon; but he shall not be liable to an action therefor by any creditor until an execution at the suit of such creditor against the Company has been returned, unsatisfied in whole or in part; and the amount due on such

execution, not exceeding the amount unpaid on his shares, as aforesaid, shall be the amount recoverable, with costs, from such shareholder; and any amount so recoverable, if paid by the shareholder, shall be considered as paid on his shares.

64. No person, holding stock in the Company as an executor, administrator, tutor, curator, guardian, or trustee, shall be personally subject to liability as a shareholder; but the estate and funds in the hands of such person shall be liable in like manner, and to the same extent, as the testator or intestate, or the minor, ward or interdicted person, or the person interested in such trust fund would be, if living and competent to act and holding such stock in his own name; and no person holding such stock as collateral security shall be personally subject to such liability; but the person pledging such stock shall be considered as holding the same and shall be liable as a shareholder accordingly.

65. Every such executor, administrator, curator, guardian or trustee, shall represent the stock held by him at all meetings of the Company, and may vote as a shareholder; and every person who pledges his stock may represent the same at all such meetings, and notwithstanding such pledge, vote as a shareholder.

LIABILITY OF DIRECTORS AND OFFICERS.

66. If the directors of the Company declare and pay any dividend when the company is insolvent, or any dividend the payment of which renders the Company insolvent, or impairs the capital stock thereof, they shall be jointly and severally liable, as well to the Company as to the individual shareholders and creditors thereof, for all the debts of the Company then existing, and for all thereafter contracted during their continuance in office respectively; but if any

director present when such dividend is declared does forthwith, or if any director then absent does, within twenty-four hours after he becomes aware thereof and able to do so, enter on the minutes of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the Company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability.

67. No loan shall be made by the Company to any shareholder ; if such loan is made, all directors and other officers of the Company making the same, or in anywise assenting thereto, shall be jointly and severally liable for the amount of such loan, with interest, to the Company, and also to the creditors of the Company for all debts of the Company then existing, or contracted between the time of the making of such loan and that of the repayment thereof.

68. The directors of the Company shall be jointly and severally liable to the clerks, laborers, servants and apprentices thereof, for all debts not exceeding six months wages due for services performed for the Company whilst they are such directors respectively ; but no director shall be liable to an action therefor unless the Company is sued therefor within one year after the debt becomes due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor unless an execution against the company in respect of such debt is returned unsatisfied in whole or in part ; and the amount unsatisfied on such execution shall be the amount recoverable with costs from the directors.

DOMICILE.—SERVICE OF PROCESS, ETC.

69. The Company shall, at all times, have an office in the

place where its chief place of business is situate which shall be the legal domicile of the Company in the North-West Territories, and notice of the situation of such office, and of any change thereof, shall be published in the *North-West Territories Gazette*: and the Company may establish such other offices and agencies elsewhere in the said Territories as it deems expedient.

70. Any summons, notice, order or proceeding, requiring authentication by the Company, may be signed by any director, manager or other authorized officer of the Company, and need not be under the seal of the Company.

71. Notices to be served by the Company upon the shareholders may be served either personally or by sending them through the post, in registered letters, addressed to the shareholders at their places of abode, as they appear in the books of the Company.

72. A notice or other document served by post by the Company on a shareholder, shall be held to be served at the time when the registered letter containing it would be delivered in the ordinary course of post; and to prove the fact and time of service it shall be sufficient to prove that such letter was properly addressed and registered, and was put into the post office, and the time when it was put in, and the time requisite for its delivery in the ordinary course of post.

73. A copy of any by-law of the Company, under its seal, and purporting to be signed by any officer of the Company, shall be received as against any shareholder of the Company as *prima facie* evidence of such by-law in all courts in the North-West Territories.

74. Any description of action may be prosecuted and maintained between the Company and any shareholder

thereof; and no shareholder shall, by reason of being a shareholder, be incompetent as a witness therein.

75. In any action or other legal proceeding, it shall not be requisite to set forth the mode of incorporation of the Company, otherwise than by mention of it under its corporate name, as incorporated by virtue of letters patent, or by letters patent and supplementary letters patent, as the case may be, under this Ordinance; and the notice in the North-West Territories *Gazette*, of the issue of such letters patent or supplementary letters patent, shall be *prima facie* proof of all things therein contained; and on production of the letters patent or supplementary letters patent, or of any exemplification or copy thereof under the seal of the North-West Territories, the fact of such notice shall be presumed; and except in any proceeding for the purpose of rescinding or annulling the same the letters patent or supplementary letters patent, or any exemplification or copy thereof under the seal of the North-West Territories, shall be conclusive proof of every matter and thing therein set forth.

#### GENERAL PROVISIONS.

76. The Company may have an agency or agencies in any city or town outside the North-West Territories.

77. No dividend shall be declared which will impair the capital of the Company.

78. Shareholders who hold one-fourth part in value of the subscribed stock of the Company, may, at any time, call a special meeting thereof for the transaction of any business specified in such written requisition and notice as they make and issue to that effect.

79. Every deed which any person, lawfully empowered



in that behalf by the Company as its attorney, signs, on behalf of the Company, and seals with his seal, shall be binding on the Company, and shall have the same effect as if it was under the seal of the Company.

80. Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or indorsed, and every promissory note and cheque made, drawn or indorsed on behalf of the Company, by any agent, officer or servant of the Company, in general accordance with his powers as such under the by-laws of the Company, shall be binding upon the Company; and in no case shall it be necessary to have the seal of the Company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or indorsed, as the case may be, in pursuance of any by-law or special vote or order; and the person so acting as agent, officer or servant of the Company shall not be thereby subjected individually to any liability whatsoever to any third person therefor: Provided always, that nothing in this Ordinance shall be construed to authorize the Company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money, or as the note of a bank, or to engage in the business of banking or insurance.

81. Proof of any matter which is necessary to be made under this Ordinance may be made by oath or affirmation, or by solemn declaration, before any Justice of the Peace, or any Commissioner for taking affidavits, to be used in any of the Courts in any of the Provinces of Canada, or any Notary Public, who are hereby authorized and empowered to administer oaths and receive affidavits and declarations for that purpose.

82. The provisions of this Ordinance, relating to matters

preliminary to the issue of the Letters Patent, or supplementary Letters Patent, shall be deemed directory only, and no Letters Patent or supplementary Letters Patent, issued under this Ordinance shall be held void or voidable, on account of any irregularity in any notice prescribed by this Ordinance, or on account of the insufficiency or absence of any such notice, or on account of any irregularity in respect of any other matter preliminary to the issue of the letters patent or supplementary letters patent.

83. The Company shall keep painted or affixed, its name, with the word "limited" after the name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible, and shall have its name, with the said word after it, engraven in legible characters on its seal, and shall have its name, with the said word after it, mentioned in legible characters in all notices, advertisements and other official publications of the Company, and in all bills of exchange, promissory notes, indorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of such company, and in all bills of parcels, invoices, and receipts of the company :

- (2) Every Company which does not keep painted or affixed, its name, with the word "limited" after it, in manner directed by this Ordinance, shall incur a penalty of twenty dollars for every day during which such name is not so kept painted or affixed :
- (3) Every director and manager of the Company, who, knowingly and wilfully authorizes or permits such default, shall be liable to the like penalty :
- (4) Every director, manager or officer of the Company, and every person on its behalf, who uses, or author-

izes the use of any seal purporting to be a seal of the Company, whereon its name, with the said word "limited" after it, is not so engraven as aforesaid, or who issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or who signs, or authorizes to be signed on behalf of such Company any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or who issues or authorizes to be issued any bill of parcels, invoice or receipt of the Company, wherein its name, with the said word after it, is not mentioned in manner aforesaid, shall incur a penalty of two hundred dollars, and shall also be personally liable to the holder of any such bill of exchange, promissory notes, cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the Company.

84. Every prospectus of the Company, and every notice inviting persons to subscribe for shares in the Company, shall specify the dates and the names of the persons to any contract entered into by the Company, or the promoters, directors or trustees thereof, before the issue of such prospectus or notice, whether subject to adoption by the directors of the Company or otherwise; and every prospectus or notice which does not specify the same shall, with respect to any person who takes shares in the Company on the faith of such prospectus or notice, and who has not had notice of such contract, be deemed fraudulent on the part of the promoters, directors and officers of the Company who knowingly issue such prospectus or notice.

85. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect to any share; and the receipt of the shareholder in whose name the same stands in the books of the Com-

pany, shall be a valid and binding discharge to the Company for any dividend or money payable in respect of such share, and whether or not notice of such trust has been given to the Company; and the Company shall not be bound to see to the application of the money paid upon such receipt.

86. Every director of the Company, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Company, given at any general meeting thereof, from time to time, and at all times be indemnified and saved harmless out of the funds of the Company, from and against all costs, charges and expenses whatsoever which he sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and also from and against all other costs, charges and expenses which he sustains or incurs, in or about, or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

87. The charter of the Company shall be forfeited by non-user during three consecutive years, or if the Company does not go into actual operation within three years after it is granted.

88. The Directors of every Company shall lay before its shareholders a full printed statement of the affairs and financial position of the Company at or before each general meeting of the company for the election of directors.

89. No steps shall be taken by the Lieutenant-Governor towards the issue of any letters patent or supplementary Letters Patent, under this Ordinance, until after all fees therefor are duly paid.

90. All Joint Stock Companies or Incorporations incorporated under any law other than this Ordinance or any Act of the Parliament of Canada, desirous of carrying on the business for which they are incorporated, shall, before they proceed to do business in the Territories, or in the case of Corporations already doing business in the Territories, within six months after the passing of this Ordinance, file in the office of the Lieutenant-Governor, a certified copy of their Charter of Incorporation, duly authenticated as such by the President and Secretary of such Company or Corporation;

Failing in which, the said Company or Corporation shall be liable to a penalty of Five hundred dollars, to be recovered at the suit of the Lieutenant-Governor in any Civil Court in the Territories, with costs of suit; and any money so recovered, shall form part of the General Revenue Fund of the Territories.

And until payment the said Company shall not be entitled to sue in any Civil Court in the Territories.

91. The following Tariff of Fees shall be paid on application for Letters Patent of Incorporation and Supplementary Letters Patent under this Ordinance; and by foreign Corporations, on filing as aforesaid in the office of the Lieutenant-Governor, a certified copy of their Charter of Incorporation, viz :

- (1) When the Capital Stock of the Company is \$400.000 and upwards, the fee to be \$200.00 ;
- (2) When the Capital Stock of the Company is \$200.000 or upwards, and under \$400.000, the fee to be \$150.00 ;
- (3) When the Capital Stock of the Company is \$100.000 and upwards, and under \$200.000, the fee to be \$100.00 ;

- (4) When the Capital Stock of the Company is \$50,000 and upwards, and under \$100,000, the fee to be \$50.00 ;
- (5) When the Capital Stock of the Company is \$40,000 and upwards, and under \$50,000, the fee to be \$40.00 ;
- (6) When the Capital Stock of the Company is over \$10,000 and under \$40,000, the fee to be \$30.00 ;
- (7) And when the Capital Stock of the Company is \$10,000 or under, the fee to be \$20.00.
- (8) On application for Supplementary Letters Patent, the fee to be one half of that charged on the original Letters Patent.

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#### SCHEDULE.

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##### FORM A.

*(Vide Section 16.)*

Public notice is hereby given, that under "*The Companies' Ordinances*," Letters Patent have been issued under the Seal of the North-West Territories, bearing date the \_\_\_\_\_ day of \_\_\_\_\_ incorporating *(here state names, address and calling of each corporator named in the Letters Patent)*, for the purpose of *(here state the undertaking of the Company, as set forth in the Letters Patent)*, by the name of *(here state the name of the Company as in the Letters Patent)* with a capital stock of \_\_\_\_\_ dollars, divided into \_\_\_\_\_ shares of \_\_\_\_\_ dollars.

Dated at Regina, this \_\_\_\_\_ day of \_\_\_\_\_ 18

A. B.,  
Lieutenant-Governor.

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##### FORM B.

*(Vide Section 13.)*

Public notice is hereby given, that under "*The Companies' Ordin-*

ance, supplementary Letters Patent have been issued under the Seal of the North-West Territories, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, whereby the name of (*here insert the name of the Company*) has been changed into that of (*here insert new name of Company*).

Dated at Regina, this \_\_\_\_\_ day of \_\_\_\_\_ 18

A. B.,  
Lieutenant-Governor.

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FORM C.

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(*Vide Section 21.*)

Public notice is hereby given, that under "*The Companies' Ordinance*," supplementary Letters Patent have been issued under the Seal of the North-West Territories bearing date the \_\_\_\_\_ day of \_\_\_\_\_, whereby the undertaking of the Company has been extended to include (*here set out the other purposes or objects mentioned in the supplementary Letters Patent*).

Dated at Regina, this \_\_\_\_\_ day of \_\_\_\_\_ 18

A. B.,  
Lieutenant Governor

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FORM D.

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(*Vide Section 28.*)

Public notice is hereby given, that under "*The Companies' Ordinance*," supplementary Letters Patent have been issued under the seal of the North-West Territories, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, whereby the total Capital Stock of (*here state the name of the Company*) is increased (or reduced, as the case may be) from \_\_\_\_\_ dollars to \_\_\_\_\_ dollars.

Dated at Regina, this \_\_\_\_\_ day of \_\_\_\_\_ 18

A. B.,  
Lieutenant-Governor.

**No. 4 of 1886.**

**AN ORDINANCE RESPECTING JURIES.**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows :

1. That from and after the passing hereof, all persons being subjects of Her Majesty and not hereinafter exempted living within a radius of 20 miles from the Court-house in which sittings of the Supreme Court are held or to be held, shall be liable to serve as Jurors in all trials of causes, both criminal and civil, which may be tried at such sittings.

2. The following persons shall be exempt from serving as Jurors: Members of the North-West Council and the officers thereof, members of the North-West Mounted Police, officers of Her Majesty's Customs and Excise, ministers of religion, practising advocates and doctors, licensed ferrymen and schoolmasters while so employed, persons above 60 and under 21 years of age, and no person shall be liable to serve as a Juror more than once in two years, provided others liable, as hereinbefore provided, are available.

3. The Sheriff shall, at the first sittings of the Supreme Court in his district, and at all subsequent sittings of the Court, when required by a Judge, return to the Clerk of the Court a list containing all the names of persons in his district liable and qualified by their station and intelligence to serve as Jurors.

4. At the first sittings of the Court in any district, the Clerk shall draw from the said list by ballot such number of names as the Judge shall order, and the persons whose names are so drawn shall be the Jurors for that sitting.



5. At all sittings of the Court, unless the Judge orders to the contrary, the Clerk shall draw by ballot from the said list such number of names as the Judge orders, and the persons whose names are so drawn shall be the Jurors for any subsequent sitting of the Court, and, when ordered by a Judge, the Clerk shall hand a list of such names annexed to a *Venire* to the Sheriff at least ten days before the sittings of the Court.

6. If the number of Jurors attending any sittings of the Court are not sufficient, the Clerk shall by ballot draw from the Jury List in his hands such number of names as the Judge orders, and hand a list of the same annexed to a *Venire* to the Sheriff.

7. The Clerk shall from time to time in open Court, or after such public notice shall have been given, as the Judge directs, in chambers, which shall be open to the public, under the direction of the Judge, amend, correct and add to the Jury list as occasion may require.

8. The whole panel of jurors shall be called on the first day on which they are bound to attend, and before any cause to be tried by a Jury is proceeded with, and all Jurors not in attendance then or when afterwards called shall be liable, at the discretion of the Judge, to be fined for each several default a sum not exceeding fifty dollars.

9. The names of all Jurors failing to attend when required, shall be returned to the Jury List in the Clerk's hands.

10. All fines for non-attendance of Jurors shall, if not paid forthwith, be levied, together with the Sheriff's costs and expenses, by warrant of distress and sale of the goods of the party against whom the same is granted, and the fines when collected shall be paid over by the Sheriff to the

Lieutenant-Governor, and form part of the general revenue fund of the Territories.

11. In all civil causes either party may peremptorily challenge four Jurors.

12. When upon the application of either party to a cause the Judge orders that the matters in issue be tried by a special Jury, the Clerk shall, under the direction of the Judge, and in presence of the parties if they chose to attend, take from the Jury List in his hands such number of names as the Judge directs of such persons as from their station and intelligence are considered qualified to try the issues, and the persons whose names are so taken shall be the panel from which the Jury shall be drawn; and in all cases the party, who shall apply for a special Jury, shall not only pay the fees for striking such jury, but shall also pay all expenses occasioned by the trial of the cause by such special Jury, and shall not have any other allowance for the same upon taxation of costs than such party would be entitled to in case the cause had been tried by a common Jury, unless otherwise ordered by the Judge who presided at the trial. Service of a summons for a Juror to attend any sittings of the Court shall be made by delivering the same to the Juror summoned, or by leaving the same with a grown-up person at his usual place of abode a reasonable time before his attendance is required.

13. There shall be paid by the Lieutenant-Governor, upon the certificate of a Judge, out of the general revenue fund of the North-West Territories:

To the Sheriff,—

For first Jury list .....	\$10 00
„ each subsequent list .....	5 00

To the Clerk,—

For each hour attending to settle or draw a list of Jurors, but not exceed- ing \$5 per day .....	1 00
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**No. 5 of 1886.**

**AN ORDINANCE RESPECTING THE HOLDING OF  
LANDS IN TRUST FOR RELIGIOUS SOCIETIES  
AND CONGREGATIONS.**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:—

1. When any religious society or congregation of Christians in the North-West Territories, desire to take a conveyance of land for the site of a church, chapel, meeting-house, burial ground, residence or glebe for the minister, or for the support of public worship, and the propagation of Christian knowledge, such society or congregation may appoint trustees, to whom and their successors, to be appointed in such manner as may be specified in the deed of conveyance or a resolution passed in the manner provided for in the tenth section of this Ordinance, the land requisite for all or any of the purposes aforesaid, may be conveyed and such trustees and their successors, in perpetual succession, by the name expressed in the deed or resolution, may take, hold, and possess the land, and maintain and defend all actions, or suits, for the protection thereof, or of their property therein; provided always that no religious society or congregation shall be capable of holding under the provisions of this Ordinance, more than 320 acres of land.

2. Such trustees shall, within twelve months after the execution of this deed of conveyance, cause the deed to be registered in the registry office of the registration division in which the land is situated, otherwise the said deed shall be void.

3. When a debt has been, or may hereafter be contracted for the building, repairing, extending or improving a church,

chapel, meeting-house, or residence for the minister, on land held by trustees, under the provisions of this Ordinance, or for the purchase of the land on which the same has been, or is intended to be erected, the trustees, or a majority of them may, from time to time, secure payment of the debt or of any part thereof, with or without interest, by mortgage upon the land, church, chapel, meeting-house, or residence for the minister, or may borrow money to pay the debt or any part thereof, and may secure the re-payment of the loan, with or without interest, by a like mortgage.

4. The trustees may lease for any term not exceeding twenty-one years, land held by them under this Ordinance, or part thereof, at such rent and upon such terms as the trustees or a majority of them may deem reasonable, provided always that the trustees shall not lease any land, which, at the time of the making of the lease, is necessary for the purpose of erecting a church, chapel, meeting house, or residence for the minister, or for a burial ground for the religious society or congregation for whose use the land is held; and provided further, that the trustees shall not lease the land so held by them or any part thereof, for a term exceeding three years, without the consent of the religious society or congregation for whose use the land is held, which consent shall be signified by resolution passed by the votes of a majority of those persons, who by the constitution of the said religious society or congregation, or by the practice of the church with which it is connected, are entitled to vote in respect of church business, present at a meeting of the religious society, or congregation, duly called for the purpose of considering the proposed lease.

5. In any lease made under the last preceding section, the trustees may covenant or agree for the renewal thereof, at the expiration of any or every term of twenty-one years, for a further term of twenty-one years or any less period.

at such rent and on such terms as may then, by the trustees for the time being, be agreed upon, with the lessee, his executors, administrators or assigns, or may covenant or agree for the payment to the lessee, his executors, administrators or assigns, of the value of any buildings or other improvements, which may, at the expiration of any term, be on the demised premises; and the mode of ascertaining the amount of such rent, or the value of such improvements may also be provided for in the original, or any subsequent lease.

6. The trustees for the time being, holding land under this Ordinance, which has been leased, under the powers contained in the fourth and fifth sections of this Ordinance, may take all such means and proceedings for the recovery of rent, or arrears of rent, which landlords are by law entitled to take.

7. When land held by trustees for the use of a religious society or congregation becomes unnecessary to be retained for such use, and it is deemed advantageous to sell the same, the trustees, for the time being, may give public notice of an intended sale, specifying the premises to be sold, the terms of payment, and the time of sale, and after publication of the notice, not less than once in each week for four successive weeks, in a newspaper published in or near the place where the land is situated, sell the land at public auction, according to notice, but the trustees shall not be obliged to complete or carry a sale into effect, if, in their judgment, an adequate price is not offered for the land; and in such a case the trustees may at a subsequent time sell the land, either at public auction or private sale, but a less sum shall not be accepted at private sale than was offered at public sale.

8. Before a deed is executed in pursuance of a public or

private sale, the religious society or congregation for whose use the land is held, shall be notified, and the sanction of the Judge of the High Court of Justice, presiding over the district in which the land is situated, obtained for the execution of the deed.

9. Trustees selling or leasing land under the authority of this Ordinance, shall, in the month of January in each year, at a meeting of the religious society, or congregation, duly called according to the constitution thereof, or according to the practice of the church with which it is connected, have ready and open for the inspection of the said society or congregation, and of any and every member thereof, a statement showing all rents which accrued during the preceeding year, and all sums of money in their hands for the use and benefit of the said society or congregation, which were in any manner derived from the land under their control or subject to their management, or from the proceeds of the sale thereof, and also showing the manner in which they may have expended or dealt with the said money or any part thereof.

10. When land is granted or conveyed to trustees for the use of any religious society or congregation, and the grant or deed of conveyance of such land does not specify the manner in which their successors to the trustees therein named are to be appointed, the religious society or congregation for whose use such land is held, may, at a meeting of the said society or congregation, duly called according to the constitution thereof, or according to the practice of the Church with which it is connected, by the votes of a majority of those persons, who, by the constitution of the said society or congregation, or by the practice of the church with which it is connected, are entitled to vote in respect of church business, then present at said meeting, pass a resolution specifying the manner in which the successors of the

trustees, for the term then being, are to be appointed, and such resolution endorsed on, or annexed to, the deed or conveyance under which the land is held for the use of the said society or congregation signed by the chairman and secretary of the meeting at which the resolution is adopted, shall govern and regulate the manner in which the successors of the trustees, named in the original grant or conveyance, shall be appointed, and, from and after the passing of such resolution, the provisions of this Ordinance shall apply to the said society or congregation, and to the trustees thereof.

11. In the case of a congregation connected with the Presbyterian Church in Canada, for the use or benefit of which land is now held, or may hereafter be held, by the Board of Management of the Church and Manse building fund of the Presbyterian Church in Canada for Manitoba and the North-West, pursuant to the powers contained in the Act of Parliament of Canada, passed in the Forty-sixth year of the reign of Her Majesty, and chaptered ninety-seven, incorporating the said Board of Management, in the case of any congregation of the said church, which has received from the said Board, a loan, under the provisions of the said Act, no resolution passed under the last preceding section shall have any force, or be operative until the same has been submitted to the said Board of Management, and the consent thereto of the said Board of management has been engrossed in writing under their corporate seal.

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**No. 6 of 1836.**

**AN ORDINANCE TO FACILITATE THE CONVEY-  
ANCE OF REAL ESTATE BY MARRIED WO-  
MEN.**

*[Passed, 16th November, 1836.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows :

1. In the construction of this Ordinance :

(1.) "Real Estate" shall extend to lands, chattels, real rents and hereditaments, whether corporal or incorporeal, and to any undivided share thereof; to any estate, right or interest therein, whether legal or equitable; to any charge, lien or incumbrance, in, upon or affecting real estate either at law or in equity; to money subject to be invested in real estate; and to any interest, charge, lien or incumbrance, in, upon or affecting such money as aforesaid.

2. Every married woman, being of the full age of twenty-one years, may by deed, convey her real estate, and convey, release, surrender, disclaim, or extinguish any interest therein, and may also, by deed, release or extinguish any power which may be vested in or limited or reserved to her in regard to real estate, and may also by deed appoint an attorney or attorneys for the purposes aforesaid, and every of them as fully and effectually as she could do if she were a femme sole.

3. The powers of conveying given by this Ordinance to a married woman shall not impair or affect any powers which independently of this Ordinance, may either by statute, contract or settlement, be vested in or limited or



reserved to her, so as to prevent her from exercising such powers in any case, except so far as by any conveyance made by her, under this Ordinance, she may be prevented from so doing in consequence of such powers having been suspended or extinguished by such conveyance.

3. Every conveyance before the passing of this Ordinance, executed by a married woman, of or affecting her real estate, to which her husband was or was not a party, is and shall be taken and adjudged to be valid and effectual, to have passed the estate, which such conveyance professed to pass of such married woman in the said real estate.

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**No. 7 of 1886.**

AN ORDINANCE TO AMEND THE MUNICIPAL  
ORDINANCE OF 1885.

[*Passed 16th November, 1886.*]

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows :

1. Section 20 of the said Ordinance is amended by expunging the word "three" and inserting in lieu thereof the word "two," and by adding to the said section the words, "Provided always that a Municipality may, by by-law, declare that no person shall be entitled to vote who has not paid all taxes in arrear due by him to such municipality.

2. Section 21 of the said Ordinance is amended by striking out the word "six," and inserting in lieu thereof the word "four."

3. Section 35 of the said Ordinance is amended by expunging from the oath administered to the voter the word "three," and inserting instead thereof the word "two."

4. Section 72 of the said Ordinance is hereby amended, by inserting between the words "the" and "day" the word "second."

5. Section 100 of the said Ordinance is hereby amended by striking out the words "tenth day of July," and inserting instead thereof the words "first day of August."

6. Section 106 of the said Ordinance is hereby amended, by expunging the word "six," and inserting instead thereof the word "eight,,"

7. Sub-section (5) of section 115 of the said Ordinance is hereby amended, by inserting after the word "parcel" the words "or lot."

8. Section 117 of the said Ordinance is hereby repealed, and the following section inserted instead thereof:

117. "Each assessor shall make and complete and deliver his roll to the Clerk of the Municipality, in each year on or before the fifteenth day of May, with his affidavit attached thereto or endorsed thereon, made before a Justice of the Peace, in the following form:

"I do swear that I have, in the within or annexed assessment roll, assessed the Municipality of (or part, as the case may be, naming the part), according to law, to the best of my skill and ability, and without favor.

Sworn before me at  
this            day of            A.D. 188            } Assessor.  
"J. P."

9. Section 141 of the said Ordinance is hereby amended, by striking out the words "fifteenth day of August," and inserting instead thereof the words "first day of July."

10. Sub-section (4) of section 142 of the said Ordinance is hereby amended, by adding thereto the following words "and the assessor may for such purpose be the complainant."

11. Sub-sections (5,) (6,) (7) and (8) of section 142 of the said Ordinance, are hereby repealed, and the following sub-sections inserted in lieu thereof:

"(5.) The Clerk shall cause to be left at the residence of each assessor, or addressed to each said assessor by registered letter to the post office address, entered

on the assessment roll, a list of all complaints respecting his roll, and shall also prepare a notice in the form following, for each person with respect to whom a complaint has been made :

“Take notice, that you are required to attend the Court of  
Revision at \_\_\_\_\_ on the \_\_\_\_\_  
day of \_\_\_\_\_ in the matter of the following  
appeal. \_\_\_\_\_ Appellant.  
That you are assessed (too high), or (too low), or (not a  
*bona fide* resident), or as the case may be.  
“Signed, \_\_\_\_\_  
“Clerk.”

"(6.) Every such notice shall be posted by registered letter to the post office address of such person as entered on the assessment roll fifteen days before the sitting of the court, except if the person has a place of business within the municipality, the Clerk shall cause the said notice to be served at such place of business at least six days before the sitting of said court."

12. Section 143 of said Ordinance is hereby amended, by adding thereto the following words: "Provided that in an incorporated town, an appeal to a Judge of the Supreme Court, shall lie, not only against the decision of the Court of Revision on an appeal to the said Court, but also against the omission, neglect or refusal of said Court to hear or decide an appeal."

(1.) "The person appealing shall, in person or by his agent, within eight days from the time of the final revision of the roll by the Court of Revision, leave with the clerk of the municipality a written notice of his intention to appeal to the Judge of the Judicial District in which such town is situate."

(2) "Upon receipt of such notice the Clerk shall transmit a copy of such notice to the Judge named."

(3) "Upon receipt by the Clerk of the Judge's appointment, the Clerk shall notify all parties interested and post up in his office, as also in the place where the Council of the Municipality sits, a notice giving the time and place where the Judge will hear the appeal, as also the names of appellants and parties appealed against.

(4.) "In all proceedings under this section the Judge shall have all the powers, conferred by the administration of Civil Justice Ordinance, for inspection and production of documents, compelling attendance of, and examination on oath of all parties required and the enforcement of his orders, as also the disposition of the costs occasioned by the appeal and enforcing payment thereof."

13. Sections 144, 145 and 147, of the said Ordinance are hereby amended by adding after the word "municipality" the words "other than a town," in each of the said sections.

14. Section 147 of the said Ordinance is hereby further amended by adding the following sub-sections:

(1.) "Every male inhabitant of an incorporated city or town, of the age of twenty one years and upwards, and not otherwise exempted by law from performing statute labor, who has resided in the said city or town for a period of two months, and has not been assessed upon the assessment roll of the city or town or whose taxes do not amount to two dollars, shall, instead of such labor, be taxed at two dollars yearly therefor, to be levied and collected at such time, by

such person, and in such manner as the Council of the Municipality may by by-law direct, and such inhabitant shall not be required to have any property qualification.

(2.) "No person shall be exempt from the tax mentioned in the last preceding sub-section, unless he produces a certificate of his having performed statute labor, or paid the tax elsewhere, or unless he is a member of Her Majesty's naval or military force, on full pay or on actual service, or a member of the North-West Mounted Police Force, or a member of a duly organized Fire Company."

15. Section 178 of the said Ordinance is hereby amended, by striking out the word "voting," and inserting in lieu thereof the words "entitled to vote."

16. Section 280 of the said Ordinance is hereby amended, by taking out of the Municipality of Whitewood, townships numbered 10 and 11, in Ranges I., II., III.

17. Section 281 of the said Ordinance is hereby amended, by striking out the words "and 19," at the end of the section.

18. Section 287 of the said Ordinance is hereby amended, by striking out the words following: "Range 11, west of the Second Principal Meridian, Township 20, and all that part of Townships 21, 22 and 23, not included in the Indian Reserve;" and "Range 12, west of the second Principal Meridian, Townships 20, 21, 22, 23;" and from the words "The provisions" to the words "A.D. 1886" inclusive.

**No. 8 of 1886.**

**AN ORDINANCE TO INCORPORATE AGRICULTURAL SOCIETIES IN THE NORTH-WEST TERRITORIES.**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows :—

1. The Lieutenant-Governor, upon receipt of a declaration in Form A. of this Ordinance, signed by not less than fifty persons, over eighteen years of age, residing within an area of not less than twenty townships, with its accompanying certificate, signed by one of the subscribers, and verified on oath before a Justice of the Peace, may, by order, constitute such persons into an Agricultural Society, under the provisions of this Ordinance, describing in such order the area as defined in the said declaration.

2. Such order shall be published in the North-West Territories Gazette; and a fee of six dollars to cover the cost of such publication shall be paid to the Lieutenant-Governor, prior to the issue of the order, and form part of the general revenue fund of the North-West Territories.

3. After the constitution of any Agricultural Society under this Ordinance, a meeting for the election of the various officers may be called by any five members thereof, by public notice posted, at five conspicuous places within the district of such society, at least fifteen days before the date fixed for the holding of such meeting; and such meeting shall be held in a central and convenient place to be determined by the Lieutenant-Governor, such date and place being stated in the notice.

4. The annual subscription payable by each member of

any Agricultural Society, constituted under this Ordinance, shall not, at any time, be less than one dollar.

5. The object of the said Societies shall be to encourage improvement in Agriculture :

(a) By importing or otherwise procuring seeds, plants and animals of new and valuable kinds ;

(b) By awarding prizes for excellence in the raising or introduction of stock, the invention or improvement of agricultural implements or machines, the production of grain and all kinds of vegetables, plants, flowers and fruits, home manufactures and works of art, and generally for excellence in any agricultural production or operation;

(c) By offering prizes for essays on questions of scientific enquiry relating to Agriculture, and the best systems of protection against prairie fires.

6. The funds of the Society, however derived, may be expended for any object not inconsistent with those authorized by this Ordinance.

7. The annual meeting of every Society shall be held on the first Monday in December in each year, when there shall be elected a President, two Vice-Presidents, a Secretary-Treasurer, and not less than seven Directors and an auditor, another to be appointed by the President then elected ; and the date for holding the annual Exhibition shall be also then decided.

8. The meeting of the officers shall be held pursuant to adjournment, or called by written notice given by authority of the President, or in his absence of the senior Vice-President, at least ten days before the day appointed, and at any meeting, five shall be a quorum.



9. The said Officers and Directors shall, in addition to the ordinary duties of management, cause to be prepared, and shall present at the annual meeting, a report of their proceedings during the year in which shall be stated the names of all the members of the Society, the amount paid by each set opposite his name, the names of all persons, to whom prizes have been awarded, the amount of such prizes respectively, and the names of the animals, articles or things, in respect of which the same were granted, together with such remarks and suggestions upon Agriculture in the District, as the Directors are enabled to offer.

10. There shall also be presented to the said annual meeting, a detailed statement of the receipts and disbursements of the Society during the year.

11. The said report and statement, if approved by the meeting, shall be entered in the Society's Journal, kept for such purpose, and signed by the President, or Vice-President, as being a correct entry; and a true copy thereof, certified, by the President and Secretary for the time being, shall be sent to the Lieutenant-Governor, on or before the fifteenth day of January next following the date of such meeting.

12. The said Officers and Directors shall answer and give such information as the Lieutenant-Governor may, from time to time, require, touching the interest or condition of agriculture in their districts.

13. Whenever the President and Secretary of a society formed under this Ordinance, have transmitted to the Lieutenant-Governor a certificate in Form B of this Ordinance, showing the organization of such society, the number of members forming the same, the amount of subscriptions paid up, and funds subscribed, the Lieutenant-Governor, in Council, may grant to the said society, out of the general

revenue fund of the North-West Territories, a sum not exceeding the amount subscribed by the said society.

14. Each society formed under this Ordinance shall be a corporation, with a corporate seal, under the name of the Agricultural Society of (inserting the name of the Society), and shall have power to acquire and possess real estate and to dispose of the same for all the purposes of the said society.

15. This Ordinance shall be known and may be cited as "The Agricultural Ordinance, 1886."

### SCHEDULE.

FORM A.

(Vide Section 1.)

We, the undersigned, agree to form ourselves into a Society, under the provisions of "The Agricultural Ordinance, 1836," comprised within the following area, (*describe area, to be called,—state name*), and we respectively promise to pay to the Treasurer of the said Society annually, as long as we continue members thereof, the sum set opposite our respective names, and to conform ourselves to the bye-laws and regulations of the said society.

NAME.	SUBSCRIPTION.

I, \_\_\_\_\_ of \_\_\_\_\_  
one of the Subscribers to the above declaration, hereby certify that the  
sum of at least one dollar has been paid by each of the above Subscri-  
bers, as his first annual subscription, to the proposed Agricultural  
Society of *(insert proposed name of Society)*; and that I hold, on behalf  
of the said proposed Society, the several amounts so paid.

Sworn before me at  
in the North-West Territories, this  
day of 188

J. P.

*Signature of  
Subscriber.*

**FORM B.**  
(See Section 13.)

We, A.B., President of the Agricultural Society of \_\_\_\_\_ and C.D., Secretary-Treasurer of the said Society, certify and declare that the said Society is now regularly organized, that the actual number of Members is \_\_\_\_\_, and that the sum of \_\_\_\_\_ has been subscribed, by and is now at the disposal of the said society.

A.B., President.  
C.D., Secretary-Treasurer.

Dated this                      day of                      188

**No. 9 of 1886.**

**AN ORDINANCE TO INCORPORATE COMPANIES  
FOR THE ESTABLISHMENT OF CEMETERIES.**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Any number of persons, not less than twenty, may form themselves into a company for the purpose of establishing one or more public cemeteries without the limits of any town or city, unless permission be given therefor by by-law of said town or city.

2. Subject to the preceding section, when any number of persons, not less than twenty,

(a) Subscribe stock to an amount adequate to the purchase of the ground required for such a cemetery and

(b) Execute an instrument according to the form in the next section contained, and

(c) Pay to the treasurer of the intended company twenty-five per cent. of the capital stock intended to be raised, and

(d) Register such instrument at full length, together with a receipt from the treasurer for the first instalment of twenty-five per cent., with the Registrar of the Land Registration District in which the ground is situate,

the company shall thenceforth become and be a body corporate, by the name designated in the instrument so regis-



4. The company shall, by walls or other sufficient fences, enclose every part of the Cemetery held by them.

5. The company shall also, out of the monies received by virtue of this Ordinance, keep the Cemetery and the buildings and fences thereof in complete repair, and in good order and condition.

6. The company shall make all proper and necessary sewers and drains in and about the cemetery for draining it and keeping it dry ; and they may, from time to time as occasion requires, cause any such sewer or drain to open into an existing sewer, with the consent in writing of the persons having the management of the street or road, and with the like consent of the owner or occupier of the land through which, or part of which, the opening is intended to be made, doing as little damage as possible to the street, road or land, wherein the same is made, and restoring it to the same or as good condition as it was in before being disturbed.

7. If the company at any time causes or suffers to be brought to or to flow in any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place, any offensive matter from the Cemetery, whereby the water is fouled, the company shall forfeit, for every such offence, five hundred dollars.

8. The said penalty, with full costs of suit, may, by a civil action in any Court of competent jurisdiction, be recovered by any person having a right to use the water ; but the penalty and costs shall not be recoverable unless sued for during the continuance of the offence, or within six months after it has ceased.

9. In addition to the penalty of five hundred dollars, (and whether the same has been recovered or not), any person having a right to use the water, may sue the com-

pany, in a civil action, for any damage specially sustained by him by reason of the water being fouled, or, if no special damage is alleged, then for the sum of ten dollars for every day during which the offensive matter has continued to be brought or to flow, after the expiration of twenty-four hours from the time when the notice of the offence was by such person served upon the company.

10. Nobody shall be buried in a vault, or otherwise, under any Chapel or other building in the Cemetery, nor within fifteen feet of the outer wall of any such Chapel or building.

11. The company shall make regulations to ensure all burials within the Cemetery being conducted in a decent and solemn manner.

12. The company shall furnish graves for strangers, and for the poor of all denominations, free of charge, on the certificate, in the latter case, of a minister or clergyman of the denomination to which the deceased belonged, that the relatives of the deceased are poor and cannot afford to purchase a lot in the Cemetery.

13. That the real estate of the company, and the lots or plots, when conveyed by the company to individual proprietors for burial sites, shall be exempt from taxation of any kind, and shall not be liable to be seized or sold under execution.

14. When a lot has been sold by the company for a burial site, the conveyance shall not require to be registered for any purpose whatever, and shall not be affected by any Registry Act, nor shall any judgment, mortgage or incumbrance subsist on any lot so conveyed.

15. The deeds from the company shall be in the following form :

“Know all men by these presents, that the \_\_\_\_\_ Cemetery Company, in consideration of \_\_\_\_\_ dollars, paid to them by \_\_\_\_\_ of \_\_\_\_\_, the receipt whereof is hereby acknowledged, do grant unto the said \_\_\_\_\_, his heirs and assigns, \_\_\_\_\_ lot of land in the Cemetery of the said Company, called \_\_\_\_\_, and situate in the said Provisional District of \_\_\_\_\_, which lot is delineated and laid down on the map of the said Cemetery, and is thereon designated by the name of \_\_\_\_\_, containing by measurement \_\_\_\_\_ superficial feet.”

16. From and out of the proceeds of the sales of burial sites made by the company, the company may pay to its shareholders, who may not desire to take land in the cemetery to the full extent of the stock subscribed for and paid by them, interest on their paid up stock, not represented by land in the Cemetery, at such rate as may be agreed on, not exceeding eight per centum per annum, and may also repay to such shareholders the amount of paid up stock held by them, not represented by land in the Cemetery.

(1) Every such shareholder of the said Company shall be taken to be a shareholder, and shall be entitled to all the rights of shareholders in respect of the shares of the capital stock of the company, held by him and fully paid up, and which are not represented by land in the Cemetery, until such shares are repaid to him by the Company; and upon the repayment to him of any share he shall cease to be a shareholder in respect of such share.

(2) Except as aforesaid, no dividend or profit of any kind shall be paid by the company to any member thereof.

17. Subject to the provisions in the preceding section contained, one half of the proceeds of all sales of burial sites made by the company, shall be first applied to the payment



of the purchase money of the land acquired by the company, and the residue to preserving, improving, and embellishing the land, as a Cemetery or Burial Ground, and to the incidental expenses of the Company; and, after payment of the purchase money, the proceeds of all future sales shall be applied to the preservation, improvement and embellishment of the Cemetery, and to the incidental expenses thereof, and to no other purpose whatever.

18. Every proprietor of a lot in the Cemetery, containing not less than one hundred superficial feet, and who has paid twenty-five per cent. or more of the price of the lot, shall be deemed a shareholder in the Company, and every such lot shall be deemed a share in the Company.

19. Every shareholder, who has paid to the Company not less than ten dollars in all on his share or shares, shall be eligible as a Director.

20. The Company may sell a lot of any size, but no proprietor of a lot containing less than one hundred superficial feet shall thereby become a member of the company or have any vote in the management of the affairs thereof.

21. The affairs and property of the Company shall be managed by five directors, a majority of whom shall form a quorum.

22. The first Directors shall be chosen by ballot from among the subscribers to the registered instrument; and thereafter the Directors shall be annually elected by the shareholders, on the first Monday in June in every year.

23. Upon every election of Directors, including the first, every shareholder shall be entitled to one vote for every share he holds, or is possessed of up to ten, and one vote for every five shares above ten; but no shareholder shall vote

unless he has paid at least two dollars upon each share, on which he votes.

24. The Directors, or a majority of them shall, at their first meeting, elect one of their number to be President of the company, and the President, if present, or if he is not present, then some Director chosen for the occasion shall preside at every meeting of the Directors, and shall not vote, except in case of an equality of votes, when he shall have a casting vote.

25. The Directors may pass by-laws for the laying out selling and managing of the ground, for regulating the erection of tombs, monuments and grave stones therein, and for empowering the President to execute conveyances of plots to shareholders.

26. The Directors shall record in a book, kept for the purpose, all their by-laws and proceedings, and every person shall have access to such book for the purpose of searching and making extracts therefrom, without payment of any fee.

27. The Directors may also call for instalments on the sums subscribed for, and may appoint a time for the payment thereof, and if the same are not then paid, the right of the subscriber and every instalment formerly paid shall be forfeited, and he shall be held not to have subscribed, unless the Directors think it expedient to remit the forfeiture, which they may do if the instalments are paid, with interest, within one year after the day when they ought to have been paid.

28. The Directors shall be personally liable for any judgment recovered against the company.

29. Any person who—

- (1.) Wilfully destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, or other structure placed in a Cemetery, or any fence, railing or other work for the protection or ornament of a Cemetery, or of any tomb, monument, gravestone, or other structure aforesaid, or of any Cemetery lot within a Cemetery ; or
- (2.) Wilfully destroys, cuts, breaks, or injures any tree, shrub or plant in a Cemetery ; or
- (3.) Plays any game or sport in a cemetery ; or
- (4.) Discharges fire-arms (save at a military funeral) in a Cemetery ; or who
- (5.) Wilfully and unlawfully disturbs persons assembled for the purpose of burying a body therein ; or who
- (6.) Commits a nuisance in a Cemetery ;

Shall, upon conviction thereof, in a summary manner before a Justice of the Peace, or other court of competent jurisdiction, be punished by a fine of not less than five dollars, nor more than one hundred dollars.

**No. 10 of 1886.**

**AN ORDINANCE TO AMEND THE SCHOOL  
ORDINANCE OF 1885.**

*Passed 16th November, 1886.*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows :—

1. That sections 5 and 6 of the School Ordinance of 1885 be repealed, and the following substituted therefor :

“ 5. It shall be the duty of the Board,—

- (1.) To meet twice a year at least, at Regina ;
- (2.) To pay the salaries and expenses of the officers of the Board, as directed by the Lieutenant-Governor-in Council ;
- (3.) To appoint a secretary to the Board ;
- (4.) To make, from time to time, such regulations as they may think fit for the general organization of schools ;
- (5.) To make regulations for the registering and reporting of the daily attendance at all schools ;
- (6.) To cause to be kept a proper record of the proceedings of the Board ;
- (7.) To determine all appeals from the decisions of inspectors of schools, and to make such orders thereon as may be required ;
- (8.) To prescribe the form of school register for all schools ;

- (9.) To make regulations for the calling of their meetings, from time to time, and prescribe the notices thereof to be given to members.

And for such schools as are not designated Protestant or Roman Catholic:—

- (10.) To appoint inspectors who shall hold office during the pleasure of the Board ;
- (11.) To appoint a Board or Boards of Examiners for the examination of teachers whose qualifications shall, from time to time, be prescribed by the Board of Education ;
- (12.) To arrange for the proper examination, grading and licensing of teachers, and the granting of certificates, such certificates to be of four classes, viz., first second, third and provisional ;
- (13.) To select, adopt and prescribe a uniform series of text-books to be used in such schools ;
- (14.) To cancel the certificate of a teacher upon sufficient cause."

"6. The Board of Education shall resolve itself into **two** sections. the one consisting of the Protestant, and the other of the Roman Catholic members thereof, and it shall be the duty of each section, for the schools of its section :

- (1.) To have under its control and management the schools of its section, and to make, from time to time such regulations as may be deemed fit for their general government and discipline, and the carrying out of the provisions of this Ordinance ;

- (2.) To cancel the certificate of a teacher upon sufficient cause ;
- (3.) To select, adopt and prescribe a uniform series of text-books ;
- (4.) To appoint inspectors, who shall hold office during the pleasure of the section ;
- (5.) To appoint a board or boards of examiners, for the examination of teachers, whose qualifications shall from time to time, be prescribed by the section ;
- (6.) To arrange for the proper examination, grading and licensing of teachers, and the granting of certificates ; such certificates to be of four classes, viz. first, second, third, and provisional."

2. Every teacher's certificate of qualification shall have the signature of a Member of the Board of Education, and no Certificate shall be given to any teacher who does not furnish satisfactory proof of good moral conduct.

3. That Section 7 of the said Ordinance be amended by striking out all the words after the words "Such School District" in the said section.

4. That Section 8 of the said Ordinance be repealed, and the following substituted therefor ;

"8. Every School District shall be known under the corporate name of the " (here insert the name chosen by the people of the district) School District No. (given by the Lieutenant-Governor) of the North-West Territories"; and the Lieutenant-Governor may, from time to time, alter the corporate name of any School District, upon the petition of the majority of the ratepayers of such district, by proclamation in the official Gazette."

5. That Section 9 of the said Ordinance be amended by striking out the words "Protestant or Catholic, Public or Separate."

6. That the words "alien or" in Section 10 of the said Ordinance be struck out.

7. That the words "alien or" in the "Notice" in Section Fourteen of the said Ordinance be struck out.

8. That Section 23 of the said Ordinance be repealed, and the following clause substituted therefor. "23. Trustees shall be resident electors."

9. That Sections 25 and 26 of the said Ordinance be repealed, and the following provisions substituted therefor.

"25. That the Returning Officer shall not be eligible for the office of Trustee.

(1) That the Trustees elect shall forthwith make the following declaration before the returning officer :

"I, A.B., do hereby accept the office of Trustee, to which I have been elected, in (Name of School District in full), and I will, to the best of my ability, honestly and faithfully discharge the duties devolving on me as such, during the term for which I have been elected in accordance with the Ordinance of the North-West Territories.

(2) The returning officer shall thereupon grant him a certificate of election in the following form :

"I, A.B., do hereby declare that (give name, residence and occupation of person mentioned) elected Trustee for (give name of School District) to hold office until the thirty-first day of October, 18   , has this day made before me the declaration of office, as prescribed by the Ordinance in that behalf.

(Signed,) A.B.,  
Returning Officer

Dated,

"23. The returning officer shall, within ten days after the date of the election, send to the Lieutenant-Governor a copy of the minutes of the meeting, and a declaration made before a Justice of the Peace, stating the names and addresses of the Trustees elected, and that they have fulfilled the requirements of the foregoing section."

10. That section 27 of the said Ordinance be repealed, and the following provisions substituted therefor :

"27. The Trustees elected at a first school district meeting shall be declared to hold office as follows :—

"(1.) The candidate receiving the highest number of votes, either by polling or show of hands, as the case may be, or the first one nominated, if no vote has been taken, shall be elected to serve until the thirty-first day of the third October following the election.

"(2.) The candidate receiving the second highest number of votes, or second in the order of nomination, shall be elected to serve until the thirty-first day of the second October following the election ;

"(3.) The candidate receiving the third highest number of votes, or the third in order of nomination, shall be elected to serve until the thirty-first day of the first October following the election ;

"(4.) Provided always, that when the election takes place between the thirtieth day of April and the thirtieth day of September, in any year, the third trustee, shall continue in office until the thirty-first day of October next ensuing the one following the election ; the second trustee shall continue in



office until the thirty-first day of the third October following the election; and the first trustee shall continue in office until the thirty-first day of the fourth October following the election;

"(5.) In school districts organized before the date of the passing of this Ordinance, the foregoing regulations shall take effect at the election of trustees, to be held on the first Tuesday in November, 1887."

11. That in section 28 of the said Ordinance, after the words "first school meeting" the words "and the declaration of the returning officer" be inserted.

12. That in section 31 of the said Ordinance the words "any number of property holders, resident within the limits of any public school district or within two or more adjoining public school districts, or some of whom are within the limits of an organized school district and others on adjacent land not included within such limits," be struck out, and the following words be inserted in lieu thereof:

"a number of the ratepayers, whether Protestant or Roman Catholic, the same being a minority of the ratepayers resident within the limits of an organized public school district to establish a separate school district therein, the same"

13. That in section 35 of the said Ordinance, after the words "such petition," there be inserted the following words "and upon its being made to appear to the satisfaction of the Lieutenant-Governor that the petitioners are of a faith, either Protestant or Roman Catholic, different from the majority of the ratepayers of the school district affected."

14. That in section 40 of the said Ordinance, after the words "petitioning the" the words "trustee of such district to that effect," be struck out, and the following words inserted in lieu thereof: "Board of Education to that effect, and giving the assessed value of the property affected."

15. That section 41 of the said Ordinance be repealed, and the following clause substituted therefor: "41. The Board of Education, on receiving a petition to the effect and in the form and substance mentioned in the next preceding section, shall have power to deal with the matter as they may see fit, and shall notify, in writing, the district or districts affected, their decision thereon."

16. That sections 43, 44, and 45 of the said Ordinance be repealed, and the following clause substituted therefor: "The regular annual election of a school trustee to fill the vacancy, which occurs yearly under the provisions of section 10 of this Ordinance, shall take place after the reports required by section 149 of Ordinance No. 3 of 1885, have been submitted and approved at the annual meeting of rate-payers on the first Tuesday in November in each year."

17. That in section 46 of the said Ordinance, after the words "such meeting to the," the words "district inspector of school, who shall report upon the same to the President of the Board of Education," be struck out, and the following words substituted therefor: "Secretary of the Board of Education."

18. That section 47 of the said Ordinance be repealed and the following clause substituted therefor: "47. At the annual meeting an auditor shall be elected by the rate-payers to audit the accounts of the district and report the result thereof to the meeting."

19. That the following clause be added to section 54 of the said Ordinance, as subsection (6.) "The teacher of a school may be the secretary of the school district, but not the treasurer."

20. That in section 56 of the said Ordinance, after the words "elected to serve," the words "but such treasurer shall receive no remuneration for his services," be struck out, and the following words inserted in lieu thereof, "and may be remunerated for his services by a sum not exceeding  $2\frac{1}{2}$  % on all monies passing through his hands on account of the district, the proceeds of school debentures excepted."

21. That in sub-section (2) of section 61 of the said Ordinance, after the words "central location," there be inserted in parenthesis, the words "(subject to the decision of the meeting called under section 68 of this Ordinance.)"

22. That the following sub-sections be added to section 61 of the said Ordinance: "(9.) Enter into a contract to have a school house built, payment for which may be made in a term of years, (not exceeding five years), in annual or semi-annual payments. The whole cost of such building not to exceed \$500.00. (10.) Procure a corporate seal for the use of the district.

23. That after the words "in writing," in section 62 of the said Ordinance, the following words be added, "provided he pays into the funds of the school district the sum of twenty dollars."

24. That in section 68 of the said Ordinance, the words "change in" be struck out, and the words "decision upon" substituted therefor.

25. That in section 72 of the said Ordinance, after the words "school hours," the words, "or recess," be inserted.

26. That section 75 of the said Ordinance be repealed, and the following clause substituted therefor: "75. There may be one month's holidays during the summer term, in either the months of July or August, at the discretion of the trustees; but before the 1st July in each year the trustees shall notify the inspector of their district the date and duration of the holidays."

27. That the following words be added to section 77 of the said Ordinance, "not exceeding one day at a time."

28. That the following words be struck out of section 81 of the said Ordinance, "resident outside the limits of such district."

29. That sub-sections (a) and (b) of sub-section (2) of section 85 of the said Ordinance be repealed, and the following clauses be substituted therefor:—

"(a) A grant of \$2.00 per child to every school whose average attendance is at least eight, for every child who has attended school ninety school days, where the school is open during the summer term.

"(b) A grant of \$1.50 per child to every school whose average attendance is at least eight, for every child who has attended school fifty school days, where the school is open during the winter term.

30. That the following words in section 104 of the said Ordinance be struck out: "as soon after the first of February in each year as shall be deemed expedient by the trustees," and the following words, "by the first of April in each year," inserted in lieu thereof.

31. That the following words in section 108 of the said Ordinance be struck out, "posting of the last of the notices hereinbefore mentioned," and the following words, "filing of the roll," inserted in lieu thereof.

32. That the following clause be added to section 111 of the said Ordinance: "and upon the production of a receipt from the treasurer of the school district to which such ratepayer has elected to pay his taxes as aforesaid, showing that the same have been duly paid, such person shall be relieved from payment of any taxes to the school district within which he resides."

33. That section 124 of the said Ordinance be repealed.

34. That after the words "they shall," in section 132 of the said Ordinance, there be inserted the words "pass a by-law to that effect, as per Form A in schedule annexed hereto, or to the like effect;" and after the words "majority of the" there be inserted the words "votes of the."

35. That after the word "notice" in section 133 of the said Ordinance, there be inserted the words "as per Form B in schedule annexed hereto, or to the like effect."

36. That section 134 of the said Ordinance be repealed.

37. That the words "two Justices," in sub-section (10) of section 137 of the said Ordinance, be struck out, and the words, "a Justice" substituted therefor.

38. That wherever the word "Justices" occurs in sections 138, 139, 140 and 141, or in any sub-section of such sections of the said Ordinance, it be struck out, and the word "Justice" inserted in lieu thereof.

39. That the words "alien or" in the oath in sub-section (5) of section 137 of the said Ordinance be struck out.

40. That the words "the Clerk of the Court," in section 139 of the said Ordinance be struck out, and the word "him" substituted therefor.

41. That after the word "return," in section 141 of the said Ordinance, the following words be inserted—"as per Form C in schedule annexed hereto, or to the like effect."

42. That section 142 of the said Ordinance be repealed, and the following clause substituted therefor: "142. If it is desired to appeal from the decision of the Justice, such appeal must be made in the manner provided in the Act 32 and 33 Victoria, Chap. 31, Sec. 65, intituled "An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders."

43. That Section 143 of the said Ordinance be repealed, and the following clause substituted therefor:

"143. Upon receipt of the return mentioned in Section 141, and upon being satisfied that the several conditions, required by this Ordinance, have been complied with, the Lieutenant-Governor shall, in writing, empower the Trustees to borrow the sum or sums of money mentioned in the By-law, and shall publish the same in the official Gazette of the North-West Territories; and the assent of the Lieutenant-Governor, published as aforesaid, to any such loan, shall be conclusive evidence that all the necessary formalities have been complied with, and that such loan is one which such School District may lawfully make."

44. That the following words be added to Section 144 of the said Ordinance, "except as hereinbefore provided by this Ordinance."

45. That in sub-section 2 of section 144 of the said Ordinance the word "fifteen" be struck out, and the word "twenty" substituted therefor.

46. That the following words be added to sub-section (3) of section 144 of the said Ordinance, "or to the like effect."

47. That sub-section (4) of Section 144 of the said Ordinance be hereby repealed, and the following clause substituted therefor:—

"(4.) Debenture shall not carry interest at a greater rate than eight per centum per annum."

48. That in section 145 of the said Ordinance, the words "Notices of polling" be struck out, and the word "By-law" substituted therefor.

49. That sub-section (2) of Section 151 of the said Ordinance be repealed.

50. That the following words be added to Section 164 of the said Ordinance, "and, unless otherwise provided, the Trustees shall post up, within the district, at least five such notices, not less than eight days prior to the holding of all public meetings."

51. All declarations and affidavits provided by this Ordinance or the School Ordinance of 1885, may be made either before a Justice of the Peace or Notary Public.

52. Whereas the Trustees of the School District of Lethbridge Protestant Public School District No. 51, of the North-West Territories, being desirous of borrowing by Debentures, under the provisions of the School Ordinance of 1885, the sum of \$2,500.00, did, on the 29th day of July, 1886, as provided by the said Ordinance, duly submit the matter to a vote;

And whereas it is provided by the said Ordinance that the returning officer who took such vote shall, within seven days after the taking of such vote, appear before two Justices of the Peace, for the purpose of procuring from them a return to the Lieutenant-Governor, showing the total number of votes taken, and the number remaining on each side, after a recount ;

And whereas, owing to the fact that there were not two Justices of the Peace available, the Returning Officer was unable to appear before the two Justices as required by law, but did, on the 23rd day of September, 1886, appear before two Justices, who made the necessary return ;

Be it enacted by the authority aforesaid, that notwithstanding the fact that the said Returning Officer did not appear before two Justices as required by law, the Lieutenant-Governor may proceed under the provisions of this Ordinance, and empower the Board of School Trustees of the "School District of Lethbridge Protestant Public School District No. 51 of the North-West Territories," to borrow the sum of \$2,500.00, as hereinbefore provided.



SCHEDULE.

FORM A.

Vide Section 34.

BY-LAW No.

A By Law relating to the issue of Debentures of the (*give full corporate name of School District.*)

Whereas it is necessary and desirable that the sum of                      dollars should be borrowed on the security of the (*give full name of district,*) for the purpose of                      repayable to the bearer, with interest at                      per centum per annum, in                      equal consecutive annual instalments;

Now, therefore, the Board of Trustees of the said School District enact as follows :

1. That the necessary notices be given, advertisements published and proceedings had, under "The School Ordinance of 1885 and amendments thereto," for receiving the sanction of the ratepayers of the School District to the loan and the issue of Debentures therefor, and that the voting thereon shall take place at  
on                      the                      day of                      18                      , pursuant to the provisions of said Ordinance and amendments thereto.

2. That if the said sanction be obtained, and the Lieutenant-Governor shall empower, in writing, the said Board of Trustees to borrow the said sum pursuant to said Ordinance and Amendments thereto, then Debentures of said District shall be issued, payable to the Bearer, in                      equal consecutive annual instalments, with interest at                      per centum per annum, and shall be executed by the chairman and one member of this Board of Trustees.

Done and Passed at                      in the Provisional District  
of                      this day of                      A.D. 18

Chairman.

(SEAL)

} Trustees.

FORM B.

*Vide Section 35.*

PUBLIC NOTICE.

By the Trustees of the (*give full corporate name of School District.*

Whereas it is deemed expedient by the Trustees of the (*give full name of District*), that the sum of                      dollars should be borrowed on the security of the said School District by the issue of Debentures repayable to the Bearer in                      equal consecutive annual instalments, from the issue thereof, with interest at the rate of                      per centum per annum, for the following purposes, namely :—

Therefore, notice is hereby given, by the Trustees of said District, that a poll will be opened by the undersigned, Chairman of the said Trustees, at the                      on                      the                      day of                      18                      , at the hour of Ten o'clock a.m., and will continue open until Four o'clock p.m. of the same day, when the votes of those duly qualified to vote thereon will be taken for or against raising the said sum of                      dollars by way of a loan on the security of the said School District as hereinbefore set forth.

The qualification of voters is expressed in the following oath, which persons desiring to vote must take, if required :—“I, A. B., do solemnly swear that I am a *bonz fide* resident ratepayer of the (*name of School District*); that I have paid the school taxes assessed against me on the last revised assessment roll of the                      ; that I am of the full age of twenty-one years; that I am not an unenfranchised Indian, that I have not voted before at this election, and I have not received any reward, either directly or indirectly, nor have I any hope of receiving any reward for voting at this time and place. So help me God.”

Of which all persons interested are hereby notified, and are required to govern themselves accordingly.

Chairman.  
} Trustees.

Dated at  
this                      day of                      18

**FORM C.**

*Vide Section 41.*

I, the undersigned Justice of the Peace (or Notary Public, as the case may be,) in and for the North-West Territories, having received the Poll Book used to record the votes taken at the meeting held in the (give name of School District in full) on the day of 18 , in connection with the issue of Debentures on the security of the said District, and having heard all complaints relative to the conduct of the voting, beg leave to submit the following return of the vote : -

Total No. of Votes taken.		No. of Votes on each side after the recount.	
FOR.	AGAINST.	FOR.	AGAINST.

J.P. or N.P.

Dated at  
this                  day of                  18

**No. 11 of 1886.**

**AN ORDINANCE RESPECTING FIRE DISTRICTS.**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows

1. In this Ordinance the word "Resident" shall mean any male occupant of lands, over eighteen years of age, resident for three months in the area established or proposed to be established as a Fire District.

2. Upon application, as in Form A in the appendix to this Ordinance, signed by a majority of the residents of any district, not less than thirty-six and not more than one hundred and forty-four square miles; the said application being verified on oath before a Justice of the Peace, or a Notary Public, as in Form B in the appendix to this Ordinance, the Lieutenant-Governor may, by Order, erect such area into a Fire District, to be under the operation of the following Sections of this Ordinance, (no reasonable objection being raised thereto,) and shall also appoint a Fire Guardian or Guardians for the district. Provided that a notice in the Form C. in the appendix to this Ordinance, (or to the like effect) of the intention to make such application has been posted in five conspicuous places in the described area. The sum of six dollars to cover costs of advertizing shall accompany such application.

3. Such order shall fix a date (such date not being later than fourteen days from the date of the order,) from and after which the provisions of this Ordinance shall apply to the district so erected, and such order shall be published in the Official Gazette.

4. After the proclamation, each resident of such area shall be liable to a rate of four dollars per annum, payable to the Fire Guardian or Guardians to be expended as hereinafter provided.

5. Any resident may commute his rate by contributing labor for the benefit of the Fire District; such commutation shall be at the rate of one dollar per day of eight hours for each resident, or two dollars per day for resident with team and implements.

6. The Fire Guardian or Guardians shall have full direction and control of the district for fire protection, and shall apply the rate or labor, as may seem best to him or them, for the purposes of this Ordinance.

7. Every resident performing labor under this Ordinance shall receive at least eight days notice from the Fire Guardian, which shall be not later than the fifteenth day of July, such notice stating the time and place where the labor is to be performed.

8. Every resident refusing to pay his rate, or to commute the same before the first day of August in each year, or refusing to obey the directions of the Fire Guardian, shall, upon conviction before a Justice of the Peace, be liable to a fine not exceeding twenty-five dollars, with costs of prosecution, and, in default of payment, to be imprisoned for a term not exceeding one month; and such fine, when recovered, shall accrue to the Fire District.

9. Each Fire Guardian shall on or before the first day of September in each year, forward the Lieutenant-Governor a return, showing the amount of money received by him, and from whom, the amount expended, number of days' work performed, and by whom, length and width of fire breaks, and cash in hand.

10. The provisions of this Ordinance shall not apply to any portion of the Territories organized as a Municipality.

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APPENDIX FORM A.

(Referred to in Section 2.)

To His Honor the Lieutenant-Governor of the North-West Territories.

The application of the undersigned sheweth :

That it is desirable to put in force within (here describe the area,) the provisions of "The Ordinance respecting Fire Districts of 1886" and that (state names and addresses) has or have consented to act as Fire Guardian or Guardians (as the case may be.) That your applicants compose a majority of those qualified to present this application under the provisions of said Ordinance.

Your applicants therefore pray that Your Honor may be pleased to cause the proper order to be issued, constituting the above described area into a Fire District, as provided by the said Ordinance.

A. B. C. D. &c., &c.

-----  
FORM B.

(Referred to in Section 2.)

I, A. B. of do make oath and say;

That the total number of persons in the area described in the annexed application, qualified to present this application under the "Ordinance respecting Fire Districts of 1886," is persons, and of the above number persons have signed the same;

That I was personally present and did see the parties, whose names are annexed thereto, sign the same and each of them before signing the same was cognizant of the contents thereof.

Sworn before me at  
this day of A.D. 188 }  
J. P. } Signatures.

\* N. B. --If no one person can verify all the signatures attached to the application, the above form may be altered to meet the circumstances

FORM C.

*(Referred to in Section 2.)*

Notice is hereby given that after the expiration of four weeks from the date of the first publication of this notice, application will be made to the Lieutenant-Governor for the erection of the following area of lands, to wit (describe the boundaries of the proposed district) into a Fire District, under the provisions of "The Ordinance respecting Fire Districts."

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

First published \_\_\_\_\_ A. D. 188 \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 188 \_\_\_\_\_

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**No. 12 of 1886.**

**AN ORDINANCE TO AMEND ORDINANCE NO. 21 OF  
1884, RESPECTING THE LICENSING OF BIL-  
LIARD AND OTHER TABLES AND FOR THE PRE-  
VENTION OF GAMBLING.**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-  
West Territories, in Council, as follows :

1. Section three of Ordinance No. 21 of 1884, intituled  
“An Ordinance to amend and consolidate, as amended, the  
several Ordinances respecting the licensing of Billiard and  
other tables and for the prevention of Gambling,” is here-  
by amended by striking out the word “half-yearly” and  
substituting therefor the word “monthly.”



NO. 13 of 1886.

AN ORDINANCE TO AMEND ORDINANCE NO. 21 OF  
1885 RESPECTING PRAIRIE FIRES.

[*Passed 16th November, 1886.*]

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows :

1. Section number seven of the said Ordinance, intituled "An Ordinance to amend and consolidate as amended, the several Ordinances respecting prairie and forest fires" is hereby repealed.

No. 14 of 1886.

AN ORDINANCE TO AMEND NO. 12 OF 1885, INTITULED "AN ORDINANCE RESPECTING POISONS."

[*Passed 16th November, 1886.*]

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Section one of Ordinance No. 12 of 1885, intituled "An Ordinance respecting Poisons," is hereby repealed and the following substituted therefore:

"1 It shall be unlawful for any person to put out strychnine or other poisons within one mile of any public trail, or within two miles of any dwelling house or camp or, unless he obtains a license from a Justice of the Peace as hereinafter provided and in accordance with the terms of such license, in any other place in the Territories. Provided that this section shall not apply to poison placed under the surface of the ground for the purpose of killing vermin."

No. 15 of 1886.

AN ORDINANCE TO FURTHER AMEND ORDINANCE  
NO. 8 OF 1883, INTITULED "AN ORDINANCE  
FOR THE PROTECTION OF GAME."

[*Passed 16th November, 1886.*]

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Sections two, three and four of the said Ordinance are hereby repealed, and the following substituted therefor:

"1. No plover, snipe, grouse, partridge, pheasant, prairie chicken, wild swan, wild goose, or any kind of wild duck, sea duck, widgeon or teal, shall be shot at, hunted, taken, killed or destroyed, between the first day of May and the thirty-first day of August in any year."

2. The following new provision shall be deemed to form part of the said Ordinance:

"None of the contrivances for taking or killing the wild fowl known as swans, geese or ducks, which are described as swivel guns, batteries, sunken punts or night lights shall be used at any time."

No. 16 of 1886.

AN ORDINANCE TO AMEND ORDINANCE No. 13  
OF 1881, INTITULED "AN ORDINANCE  
RESPECTING BULLS."

[*Passed, 16th November, 1886.*]

Be it enacted by the Lieutenant-Governor of the North-  
West Territories, in Council, as follows:

1. Section Two of the said Ordinance, is hereby amended  
by striking out all the words after the word "large."

**No. 17 of 1886.**

**AN ORDINANCE TO FURTHER AMEND ORDINANCE  
NO. 29 OF 1884, INTITULED "AN ORDINANCE  
TO AMEND AND CONSOLIDATE, AS AMENDED,  
THE SEVERAL ORDINANCES RESPECTING  
FENCES."**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Sub-Section one of Section three of the said Ordinance is hereby repealed, and the following substituted therefor:

- (1) "Of rails or boards, not less than four in number, the  
"lower one not more than eighteen inches from the  
"ground, and each panel not exceeding twelve feet in  
"length."

2. The following provision shall be deemed to form part of the provisions of the said Ordinance:

"No action for damages caused to hay or grain in  
"stacks shall be maintained in any part of the Terri-  
"tories, except in districts erected into herd districts  
"under the Ordinance in that behalf and during the  
"time limited therein, unless the same is surrounded by  
"a substantial fence, not less than four feet six inches  
"high and at no point nearer than twelve feet from such  
"stacks and consisting:

- (1) "Of rails or boards, the lower one not more than one  
"foot from the ground, the others not more than six  
"inches apart, except the top one which may be eight  
"inches from the next rail, each panel not exceeding  
"twelve feet in length; or  
(2) "Of barbed or common wire, and a substantial rail on  
"the top, the wires to be not less than five in number,  
"the lower not more than one foot from the ground  
"and the others not more than eight inches apart."

**No. 18 of 1886.**

**AN ORDINANCE TO REPEAL ORDINANCE NO. 20  
OF 1885, AND TO AMEND ORDINANCE NO. 1 OF  
1884, INTITULED "AN ORDINANCE RESPECT-  
ING THE HERDING OF ANIMALS."**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows :

1. Ordinance No. 20 of 1885, intituled "An Ordinance to amend Ordinance No. 1 of 1884, intituled "An Ordinance respecting the herding of Animals" is hereby repealed.

2. The proviso in Section one of the said Ordinance, No. 1 of 1884, is hereby repealed, and the following substituted therefor :

"Provided that a notice in the Form C in the appendix, or to the like effect, of the intention to make such application, has been posted in at least one conspicuous place in each Township, or fraction of township, constituting the proposed herd district, three weeks next preceding the application being made to the Lieutenant-Governor, and provided such application is accompanied with the sum of six dollars to cover the costs of publication in the Official Gazette, as required by Section two of this Ordinance.

3. Section five of the said Ordinance is hereby amended by inserting after the words "cultivated lands," the words "or stacks of grain," and also by inserting after the word "may," where it first occurs, the words "between the fifteenth day of May and the fifteenth day of October inclusive in each year," and further by inserting after the word "keep" the words "and properly feed."

**No. 19 of 1886.**

**AN ORDINANCE TO INCORPORATE A GENERAL  
HOSPITAL AT REGINA.**

*[Passed 16th November, 1886.]*

Be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. Spencer Argyle Bedford, John Gillanders Turriff, Charles Marshallsay, James Hamilton Ross, William Dell Perley, David Finlay Jelly, Robert Crawford, John Secord, Daniel Mowat, Nicholas Flood Davin, David Lynch Scott, James Henry Benson, Alexander Lawson Lunan, Henry Dodd, Robert B. Cotton, and such other persons, as may from time to time become Members of the Corporation to be hereby incorporated, shall be and are hereby constituted a body politic and corporate by and under the name of "The Regina General Hospital."

2. The said Corporation by the name of "The Regina General Hospital" shall have perpetual succession and a common seal, and by such name may, from time to time and at all times, purchase, acquire, receive, accept, build, hold, possess and enjoy for them and their successors, any lands, tenements, hereditaments and real and moveable property and estate within these Territories, together with such grants, devises, gifts and bequests, as may be made by and received from the Government of the Dominion of Canada, the North-West Territories, the Town of Regina or any other Corporation, person or persons whatsoever for the sole use and benefit of said Hospital; provided always that the annual value of such real estate so held as aforesaid does not at any one time exceed the sum of ten thousand dollars.

3. The affairs of the said Corporation shall be managed

by a Board of Directors consisting of fifteen members, and the said Spencer Argyle Bedford, John Gillanders Turriff, Charles Marshallsay, James Hamilton Ross, William Dell Perley, David Finlay Jelly, Robert Crawford, John Secord, Daniel Mowat, Nicholas Flood Davin, David Lynch Scott, James Henry Benson, Alexander Lawson Lunan, Henry Dodd and Robert B. Cotton shall constitute the first Board of Directors, and shall continue to hold office and act as such Directors until their successors are appointed as hereinafter provided.

4. The Board of Directors shall every year at their first Meeting after Election appoint from among themselves a Chairman, Secretary and Treasurer.

5. The said Board of Directors shall have power to meet from time to time, for the transaction of the affairs of the said Corporation, of whom five shall form a quorum; and in the absence of the Chairman or Secretary any Director present may be appointed to act for the time being as such Chairman or Secretary.

6. The said Board of Directors shall have power to make by-laws, rules and regulations, not being contrary to law or to the provisions of this Ordinance, and power to amend, or repeal, from time to time, the same, for all purposes relating to and bearing upon the well-being and interests of said Corporation.

7. All annual Subscribers, who shall have paid such sum as may be fixed by the by-laws of the said Board of Directors and whose names shall appear in a book kept for that purpose, shall be Members of said Corporation and shall have the right to take part in the annual Meeting of said Corporation.

8. A donation at any time of Fifty Dollars or upwards shall entitle the donor to life membership.

9. All Members, who shall have paid their annual sub-



scriptions, as provided in Section 7, shall be eligible for election as Directors.

10. There shall be a General Annual Meeting of the Members of said Corporation on the first Monday of July in each year at an hour and place to be named by the Directors, and notice thereof shall be given by the Secretary by written notice and be published in one or more of the newspapers published in the Town of Regina at least six days previous to the day of such meeting.

11. Provided that if from any cause such General Meeting shall not be held on the said first Monday of July, the Directors and Officers of said Corporation, then in office, shall continue in office until such General Annual Meeting is held, and their successors duly appointed as hereinafter provided.

12. If such General Annual Meeting shall from any cause not be held on the day hereinbefore appointed for the same, then it shall be lawful for the Directors then in office to decide upon another day for the holding of a General Annual Meeting, which day shall be within two months after the time, when the same should have been held, and such meeting shall be called in the same manner, as it was called on the proper day, and at such meeting all business may be transacted and all things done in the same manner as the same would have been transacted and done, if such meeting had been held on the day aforesaid,

13. A full report shall be submitted by the Directors to the said General Meeting, for its consideration and approval, showing the condition of the affairs of said Corporation, including the Treasurer's report, the Steward's report receipts and disbursements and all other matters bearing on the interests of the said Corporation, also a list showing the names of Members.

14. The Members present at the Annual Meeting shall proceed to elect the Directors for the ensuing year by ballot, and the fifteen Members, receiving the highest number of votes, shall be the Directors for the ensuing year.

15. The said Annual General Meeting shall elect an auditor for the ensuing year, and the Board of Directors at their first meeting thereafter shall also appoint an auditor; and it shall be the duty of said Auditors to examine and report upon all accounts affecting the Corporation, or relating to any matter under its control or within its jurisdiction for the year previous; and they shall prepare an abstract of the receipts and expenditures and liabilities of the Corporation, and shall submit the same to the Directors on or before the first day of July in each year.

16. It shall be the duty of the said Corporation on or before the first day of January in each year to transmit to the Lieutenant-Governor, for the information of the Council of the North-West Territories, a return of the affairs of such Corporation, showing in detail the assets and liabilities, and the number of sick persons received and attended to during the preceding year in the said General Hospital.

17. The Directors of such Corporation shall, if they have been requested so to do by the Lieutenant-Governor in Council, and provided they are in receipt of public funds of the North-West Territories, keep in such Hospital, at such time and for such period, as may be determined by the said Lieutenant-Governor in Council, an adequate supply of vaccine matter for the following purposes, viz:

- (A) For the vaccination, by a qualified person attached to such Hospital, at the expense of the same, of all poor persons, and, at their own expense, of all other persons, who may attend at such Hospital for that purpose dur-

ing one day in every week; the fee to be charged for such vaccination not in any case to exceed seventy-five cents, and to be used and applied for the benefit of the Hospital.

18. This Ordinance may be cited as "The Regina General Hospital Ordinance."

**No. 20 of 1886.**

**AN ORDINANCE TO LEGALIZE CERTAIN BY-LAWS  
OF THE CORPORATION OF THE MUNICIPALITY  
OF SOUTH QU'APPELLE AND THE DEBENTURES  
ISSUED THEREUNDER.**

*[Passed 16th November, 1886.]*

Whereas the Municipal Council of the Corporation of South Qu'Appelle did, on the Seventh day of March, 1885, after the same was duly approved by the electors of the said Municipality, pass a By-law, No. 18 of the Corporation of the Municipality of South Qu'Appelle, to raise by way of loan the sum of \$10,000 ;

And whereas the said Municipal Council of the Corporation of the Municipality of South Qu'Appelle did, on the 3rd day of October, 1885, pass a By-law after the same was duly approved by the electors of the said Municipality, to amend and legalize said By-law, No. 18 of the said Corporation, passed to raise by way of loan the sum of \$10,000, and which said last-mentioned By-law is numbered 24 ;

And whereas the Corporation of the Municipality of South Qu'Appelle did, under and by virtue of said By-laws, raise by way of loan the sum of \$10,000, and the chairman and clerk of the said Municipality did sign and issue debentures of the Corporation of the Municipality of South Qu'Appelle to the amount of \$10,000, in sums of \$1,000 each, payable at the Bank of Montreal, in the city of Winnipeg, on the 12th day of March, 1895, to which said debentures were attached coupons for the payment of interest yearly at the rate of 6 per centum per annum ;

And whereas the said debentures were handed over to the parties entitled to them ;

And whereas, in consequence of certain formal defects in these said By-laws, doubts exist as to their validity and as to the validity of the said debentures issued thereunder;

And whereas the parties entitled to said debentures have petitioned, praying that for the purpose of removing all doubts as to the validity of the said By-laws, and of the debentures issued thereunder, arising from defects either of form or substance, an Ordinance may be passed to confirm and legalize said By-laws, numbered respectively 18 and 24, and the debentures issued thereunder;

And whereas it is expedient to grant the prayer of said petition;

Therefore, be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. The said By-law No. 18 and the said By-law No. 24 respectively, of the Corporation of the Municipality of South Qu'Appelle, above in part recited, are hereby confirmed and declared legal and valid to all intents and purposes, and the debentures issued under the said By-laws are hereby declared binding upon the said Corporation of the Municipality of South Qu'Appelle and the electors and rate-payers thereof, and all parties concerned therein. And the same By-laws and each of them shall be held to have been good and valid from the time of the passing thereof, respectively, and all assessments, levying and collecting of rates and payments made, and proceedings and dealings heretofore made and had, and hereafter to be made, had or taken under the said By-laws, and each of them, are also hereby legalized and made valid.

232 No. 21 of 1886. *Town of Regina.*

No. 21 of 1886.

AN ORDINANCE TO LEGALIZE A CERTAIN BY-LAW OF THE MUNICIPAL COUNCIL OF THE TOWN OF REGINA.

[*Passed 16th November, 1886.*]

Whereas, the Mayor and Council of the Town of Regina have, by their petition, represented that a by-law to raise, by way of loan, the sum of \$2,500 as a bonus to Messrs. MacCaul, McNichol and Rielly, to enable them to erect a grist mill in the said Town of Regina, was duly passed by the said Municipal Council, and numbered 18;

And whereas doubts have arisen as to the validity of the said by-law, and the debentures thereunder issued, and owing to such doubts the said MacCaul, McNichol & Rielly have been unable to dispose of the said debentures, although they have in good faith erected a grist mill in accordance with the terms of the said by-law and the resolutions of the Municipal Council of the said town;

And whereas the Mayor and Council of the Town of Regina pray that an Ordinance may be passed legalizing the said debentures;

And whereas it is deemed expedient to grant such prayer;

Therefore be it enacted by the Lieutenant-Governor of the North-West Territories, in Council, as follows:

1. That the said by-law of the Town of Regina, intituled "By-Law No. 18 of the Corporation of the Town of Regina, to raise by way of loan the sum of two thousand five hundred dollars in aid of the erection of a grist mill in said town," and all the debentures now issued, or that may here-

after be issued under and in pursuance of said by-law, are and have been, and the same are hereby declared to be legal, valid and binding upon the said Corporation of the Town of Regina, any law, statute or ordinance to the contrary notwithstanding, and notwithstanding any defect in point of form or otherwise in the said by-law, or in the passing thereof, or in the said debentures or any of them.

## INDEX.

*The numerals refer to sections of the Ordinance.***ABATEMENT—**

When action not to abate by death &c. 47.

**ABSCONDING DEBTOR—**

Attachment against, 309.  
Service of attachment, 310.  
Return of goods if security given, 312.  
No judgment except by Judge's order, 313.  
Attachment set aside, 314.  
Sale of perishable goods seized, 315.  
Rateable distribution when, 316.  
Priority in certain cases, 317.

**ACCOUNT—**

Application for, 38.  
How taken and evidence of, 150.  
Verification by affidavit, 151.  
Surcharging, 152.  
Judgment and enquiries as to in case of personal estate, 153.  
Directions on taking, 154.  
Allowances to be made, 155.  
Delay in presenting, 156.  
Passing by receiver, 305.  
Passing by guardians, 308.  
Reference to officer if damages a matter of, 169.

**ADJOURNMENT**

Of sittings, 452.

**ADMINISTRATION —**

Sale in, conduct of, 101.

**ADVERTISEMENT—**

Substituted service by, 26ss1.  
For creditors and claimants, 107.

**ADMINISTRATOR —**

Suing or sued on behalf of estate, 36.  
Application by for specific relief in chambers, 401.  
Ad litem where no probate, 415.

**ADDRESS FOR SERVICE —**

Of plaintiff and advocate, 18.  
Omission to supply, 18.  
Defendant when appearing to give, 43.  
Omission to supply, 51.

**ADVOCATE—**

Address for service, 18.  
Disclosure by, as to authority to issue writ, 23.  
Change of, 24.  
Effect of service order for discovery on, 141.  
Omission of notice to client thereof, 142.  
Enrolled, commissioners for taking affidavits, 447.

**ADMISSIONS—**

By want of specific denial in pleading, 82.  
Notice to admit case, 143.  
To admit documents, 144.  
To admit facts, 145.  
Judgment on admissions, 146.  
Affidavit verifying admissions, 147.

**ACTION—**

Abatement of, 47.  
Joinder of causes of, 51.  
Discontinuance of, 21.  
Stay of, 119, 124.  
To perpetuate testimony, 158, 200.  
Against public officers, 443.

**AFFIDAVIT—**

For service out of jurisdiction, 28.  
Discovery of documents, 134.  
Verifying admission, 147.  
Verifying account, 151.  
Of merits required to postpone trial, 164.  
Trial by, evidence at, 171.  
Cross examination on, 189, 202.  
Not received at trial without special leave, 193.  
Of service of subpoena, 197.  
How entitled, prolixity, 203.  
As to belief, 204.  
Argumentative or containing hearsay, 204.  
Before whom sworn in Territories, 205.  
Time and place where sworn to be specified, 206.  
Before whom sworn out of the Territories, 207.  
Division into paragraphs, 208.  
Description and abode of deponent, 209.  
By two or more deponents, 210.  
To be filed, 211.  
Containing scandalous matter, 212.  
Interlineations or erasures in, 213.  
By illiterate persons, 214.  
Effect of irregularity in, 215.  
Sealing copies, 216.  
Interested parties not to swear, 217, 218.  
Filed too late, 219.  
Affidavit in reply, 219.  
To be sworn and filed before motion, 220.  
Notice of intention of using in Chambers, 221.  
Use of affidavits previously used, 222.  
Alteration in exhibit to, 223.  
Annexing accounts, 221.  
Exhibits to be marked, 225.  
All affidavits filed to be examined by Clerk, 228.  
For garnishee summons, 226.



For attachment absconding debtor, 300.  
 For replevin, 319.  
 For interpleader, 321.  
 Commissioner for taking, 117.

**AGENT—**  
 Service of summons on, 26ss<sup>2</sup>.  
 Who deemed such, 26ss2 and 3.

**APPEARANCE—**  
 When writ served out of jurisdiction, 29.  
 Default of, action for account, 38.  
 Generally, 52.  
 Address for service with, how entered, 53.  
 By landlord in action for land, 57.  
 By person not named in writ, for land, 56.  
 Limited in action for land, 59.  
 Default of one or more in action against several, 60.  
 Setting aside judgment default of, 68, 79-71.  
 Proceedings on default of, 61.  
 Liquidated demand, 62.  
 Detention of goods and damages, 63, 64.  
 Several defendants some appearing, 61.  
 Default of damages and liquidated demand, 65.  
 Default of in action for land, 66.  
 In action for land mesne profits, damages, &c., 67.  
 In mortgage suits, 69.

**APPEAL—**see Court in Banc.  
 From taxation, 400.

**ARREST—**  
 Of witness on refusal to attend on subpoena, 182.

**ASSIGNMENT—**  
 Of debt or chose in action, 7 ss 5.

**ATTACHMENT—**  
 Against directors or officers of corporation 262.  
 Of debt, see garnishee, 286.  
 Before judgment, see absconding debtor, 300.

**AMENDMENT—**  
 Of pleadings, 125.  
 Application for leave to amend, 126.  
 When amendment to be made, 127.  
 How made, 128, 129.  
 When amended pleading to be served, 130.  
 Of clerical errors in judgments or orders, 131.  
 Costs of amending pleadings, 132.  
 By Court in banc, 416, 417.  
 Of parties, 39, 48.

**ASSESSMENT—**  
 Of damages default of appearance, 63, 61.  
 In case of continuing wrong 170.

**BILL OF EXCHANGE—**  
 When loss of no defence, 96.  
 May be seized under execution, 269.

**CHANGE OF ADVOCATE—**  
 Order for unnecessary, 21.

**CHOSE IN ACTION—**  
 Assignment of rights of debtor, 7 ss 5.

**CHANGE OF PARTIES.**  
 Effect of death, marriage or insolvency, pendent lite, 47.  
 Power to add parties, 48.  
 Order for new parties, 49.

**CHAMBERS—**  
 How applications in made, 392, 393.  
 Ex-parte applications, 393.  
 Alteration of summons, 391.  
 Time for services of, 395.  
 Proceedings on non-attendance, 396.  
 Reconsideration where Judge has proceeded ex-parte, 397.  
 Costs in case of non-attendance, 398.  
 Adjournment for further consideration, 399.  
 List and nature of business to be taken in, 400.  
 Originating summonses in administrations, trusts &c., 401.  
 Service of originating summons, 402.  
 Proceedings on return of, 401.  
 Special directions as to carriage of order, &c., 405.  
 Assistance of experts, 406.  
 Advertisement for creditors and claimants, 407.  
 Exclusion of, not claiming within time, 407.  
 Guardians *ad litem* may be appointed in, 408.  
 See also lunatic and infant.

**CLERK—**  
 Security by, 9.  
 To take oath of office, 13.  
 Action against, for breach of duty, 11.  
 Duties of, 11.  
 Death or resignation of, 11, ss 4.  
 To examine all affidavits filed, 238.  
 Authority to enter judgment, 239.  
 Fees of, 431.  
 To post tariff of fees in conspicuous place, 436.  
 To make monthly returns of territorial revenue, 441.  
 Deputy Clerks, 448.  
 To adjourn sittings, when, 452.  
 Of Supreme Court, words meaning, 458.  
 Revision of taxation of, 400.

**CONDITIONS PRECEDENT—**  
 Performance need not be averred, 83.

**CONVERSION OF SECURITIES—**  
 Application for, 111.

**COUNTER-CLAIM—**  
 How pleaded, when allowed, 78.

- To be proceeded with, although action discontinued, 78  
Reply to, 79
- CONFLICT**—  
Of law and equity, 7 ss 8
- COUNSEL**—  
Speeches of, 166.
- CONTEMPT OF COURT**—  
Disobedience of order for examination is, 116, 364
- CONFESSION**—  
Of defence, 116
- CONSENT**—  
Withdrawal of record by, 122
- COURT IN BANC**—  
Sittings when held, 409  
Adjournment of when no quorum, 410.  
Discretionary orders not appealable except by leave, 411.  
Limitation of appeals in contracts and torts, 412  
Security of costs of appeal, 413  
Applications to be by way of rehearing, 414  
Notice of motion, when to be served, and on whom, 415, 417  
Amendment of notice, 416  
Powers of Court over appeals, 418  
New trial for misdirection, rejection, etc., when, 419.  
New trial, as to part, effect, 420.  
Stay of proceedings, pending appeal, 421  
Evidence of facts, how brought before Court, 422  
Interlocutory order not to prejudice appeal, 423.  
Appeal, no stay of execution without order, 424  
Death of judge who tried cause, 425  
Entry of appeal for argument, neglected, 426  
May regulate costs of counsel, advocates etc., 440
- CONTRACT**—  
Equitable relief against, 6  
Stipulation not of the essence, 7, ss 6  
Defendant abroad, breach within jurisdiction, 27  
Joinder of parties in actions, 34
- CONCURRENT WRITS OF SUMMONS**—  
Issue of, 19  
Renewal of, 20
- COMMISSIONERS**—  
For taking affidavits, 447
- COMMITTAL**—  
Writ of, 213
- CROPS**—  
No sale of till harvest ed, 272
- COSTS**—  
Separate execution for recovery of, 215, 279  
Of discovery in aid of executions, 285  
Discretion of court or judge as to, 427  
To follow the event generally, 423  
Security for, 429  
Of advocate as guardian, *ad litem*, 432  
Interlocutory applications, 433  
Of clerk, 431  
Of sheriff, 435  
Of advocates, 439  
Regulation of by court, in *banc*, 440  
Sum in gross, in lieu of taxed, 433  
Of non-attendance in chambers, 398  
Of proceedings in lunacy, 316, 350  
Revision of by Judge, 400  
Occasioned by scandalous matter, 95, 212
- CORPORATION**—  
Service of summons against, 26 ss 3  
Execution against shareholder, 257 ss 4  
Execution against directors, 262
- DAMAGES**—  
Assessment of default of appearance, 63, 64  
In case of continuing wrong, 170
- DECLARATORY JUDGMENT**, 120.
- DELIVERY**—  
Writ of delivery of property, 247  
Assessed value in lieu of, 279  
Separate writ for costs, 279
- DEATH OF PARTY**—  
Its effect on action, 47
- DEBTS**—  
Assignment of see chose in action  
• Notice of conflicting claim, see chose in action  
Discovery of in aid of executions, 282  
Bound by service of garnishee, 287
- DEFENCE**—  
Equitable, 6  
Statement of when to be filed and served, 52.  
To contain material facts, not evidence, 77  
Not guilty by statute, 81  
Denials to be specific, 86  
Set off, 78  
Evasive denial, 87  
Payment into court, 100  
Tender, 101  
Payment into court, with defence denying liability, 103 ss 1, 2, 3  
After action and before delivery of statement, 114.  
After pleading, 115  
Confession of, 116

**DEFAULT--**

- Not proceeding after death, 50
- Non-appearance plaintiff at trial, 161
- Of appearance in action for account, 38
- Proceedings upon default of appearance, 61
- Liquidated demand some appearing, 60-62
- Detention of goods and damages, 63-65
- Several defendants, some appearing, 64
- Damages and liquidated demand, 65
- In action for land, 66
- For land and profits, damages, &c., 67
- Judgment by, setting aside, 68-70
- In delivery of answer to interrogatories, 140
- Of appearance, partition foreclosure, administration, &c., 69
- Of receiver, 306

**DEPOSITIONS--**

- Order for taking evidence by, 174
- How taken, 180
- Transmission of by examiner, 185
- When receivable in evidence, 187
- Special direction as to use of, 192
- When receivable at trial, 193

**DIRECTIONS--**

- On taking accounts, 154
- As to use of depositions, 192
- Special in administration and trusts, 405

**DISCOVERY OF DOCUMENTS--**

- Application and order for, 133
- Affidavit of, 135
- Production under order for, 135
- Time and place for inspection, 137
- Omission to give time and place, 138
- Objections to discovery, 139
- Decision of question on which right of discovery depends, 139
- Disobedience of order for, 140
- Service of order for, 141
- In aid of executions, 282
- Compelling attendance and production, 284
- Costs of Application, 285

**DISCONTINUANCE--**

- Of claim, defence or counter-claim, 121
- Costs on, 123
- Power to stay second action after, 124

**DISMISSAL**

- Of action when pleading frivolous, 119
- For Disobedience of order for discovery, 140
- For not giving security, 429

**DOCUMENTS**

- Discovery of, 133

Notice to produce, 136

Notice to admit, 144

Unnecessary documents in notice costs, 143

**ENTRY OF JUDGMENT--**

Date of when given in court, 234

In other cases, 235

**EQUITABLE RULES, and see Rules of Law--**

- Prevail generally where conflict, 7 ss 8
- Giving effect to equitable defence or claim, 6
- Equitable estates, &c., to be recognized as in England, 8

**EQUITY OF REDEMPTION--**

In chattels may be sold under execution, 267.

**ESTATES--**

Personal outstanding enquiries as to, 153

**ESSENCE OF CONTRACT--**

Stipulations as to time, 7 ss 6

**EXECUTORS--**

Suing or sued on behalf of estate, 36

**EXECUTION--**

- For recovery of money and costs, 245
- For recovery of land, 246
- For recovery of other property, 247
- For doing or abstaining from doing an act, 248
- On conditional judgment, 249
- Against firm, 250
- Præcipe for writ of, 251
- Party entitled may have one or more writs of, 252
- Date and test of writ, 253
- Currency and renewal of, 253
- Poundage fees and expenses, 254
- Indorsement on of party suing out, 255
- Within six years, 256
- After six years or change of parties, 257
- Husband and wife, 257 ss 2
- Judgment of assets in futuro, 257 ss 3
- Against shareholder, 257 ss 4
- Order enforced as judgment by, 258
- By or against person not a party, 259
- Stay of, 260
- On mandatory judgment or specific performance, 261
- Against corporation or directors, 262
- Form of, 263
- When to bind goods, 264
- Against goods not to affect bona fide purchasers before seizure, 265
- Sale under advertisement, 266
- What may be sold, execution against goods, 267.
- Monies, cheques and securities, may be seized under, 269

- No sale of crops till harvested, 272  
 Against lands when it may issue, 273  
 Return of *nulla bona* 275  
 Costs of against lands, when money made on goods, 276  
 Sale under after expiry of writ, 278  
 For delivery of property, 279  
 Separate writs for possession and costs, 281  
 Discovery in aid of, 282  
 In case of judgments other than for money, 283  
 Against garnishee, 288  
 Appeal, no stay of, unless by order, 424
- EVIDENCE—**  
 Omitted by accident or mistake, how supplied, 165  
 Restrictions on cross-examination, 167  
 At trial, mode of giving, 171  
 By affidavit, 171  
 Taken in another cause, condition of using, 172  
 Office copies, admissible in, 173  
 Depositions when receivable in evidence, 187  
 Evidence taken subsequent to trial, 190  
 Of facts how brought before court in *hanc*, 422  
 Evidence at trial used in subsequent proceedings in the cause, 194  
 Law of England to obtain in court, when, 459
- EXAMINATION OF WITNESSES—**  
 Power to order before judge, officer or person, 174  
 Production of documents before, 175  
 Consequence of disobeying order, 176  
 Conduct money, 177  
 Documents to be furnished examiner, 178  
 Depositions how taken, 180  
 Objections to questions, 180  
 Refusal of witness to attend or answer, 181  
 Objections of witness to be taken down, 183  
 Refusal of witness to attend on subpoena, 182  
 Power to order witness to pay costs, 184  
 Transmission of depositions, 185  
 Special report of examiner, 186  
 Oaths how administered, 188  
 Practice on examinations, 191
- FIRM—**  
 Power to sue and be sued in firm name, 41  
 Single person trading in firm name so sued, 42  
 Execution against, 250
- FOREIGN JUDGMENT, 201.**

FORMS, 442.

**FRAUD—**

Low Pledged, 90

**GARNISHEE—**

Before or after judgment, 286  
 Affidavit for, 286  
 Summons returnable in ten days, 286  
 No order against, until judgment for plaintiff, 286  
 Exemption from attachment, 286  
 Service of to bind debts, 287  
 Order for execution against, 288, 291  
 Issue where liability disputed, 291  
 Order for third person to appear, 290  
 Discharge of garnishee, 292  
 When liable for costs, 293

**HUSBAND AND WIFE—**

Service in action against, 26 ss 8  
 Husband entitled or liable to execution for or against wife, 257 ss 2  
 Marriage of party to action, 48

**INCOME—**

Allowance of out of real or personal estate, 300

**INDORSEMENT**

Of particulars on executions, 255

**INFANT—**

Service of writ on, 26 ss 9  
 How to sue and be sued, 43  
 Admission in pleadings by, 82  
 Investment of moneys recovered by, 108  
 Payment out of court of money of, 109  
 Investment of money of, 110  
 Party to special case, 159  
 Appointment or removal of guardians, 353  
 Mother may be in certain cases, 354  
 Testamentary guardian may be recognized, 355  
 Testamentary may be removed, 356  
 Witnesses, attendance of, may be ordered, 357, 364  
 Guardian of, may be appointed on application of, 358  
 Guardian of, to give bond, condition of, to be filed, 359  
 Guardian of, may bind as apprentice, 360  
 Cancellation of guardianship or apprenticeship, 361  
 Practice and procedure in England followed, 362

**CUSTODY OF INFANTS—**

Mother may be allowed access to infant, 363  
 Infant under twelve may be delivered to mother, 363  
 Under special circumstances any infant may be so delivered, 363  
 Judge may order attendance of witnesses, 364

- Disobedience of order to attend, contempt, 364  
 All orders may be enforced by attachment, 365  
 Mother guilty of adultery, &c., not to have custody or control, 366
- ESTATE AND PROPERTY OF—**  
 Administered by court, sale, lease, &c., 367  
 Application for, how and by whom made, 363  
 Conveyance, by whom to be executed, 369  
 Effect of Conveyance, 370  
 Moneys received on how applied, 371  
 Surplus how disposed of, 372  
 Proceedings where estate subject to incumbrance, 373  
*Propria persona*, infant need not appear in unless ordered, 374  
 Vesting order effectual to pass estate, 375  
 Guardians *ad litem* may be appointed in chambers, 408
- INTERPLEADER—**  
 Application by debtor or trustee, 7 ss 5  
 In what cases granted, 323  
 Affidavit by applicant, 324  
 Titles of claimant's adverse, 325  
 Time to apply if applicant defendant, 326  
 Summons, 327  
 Power to stay action, 328  
 Making claimant defendant, 329  
 Power to direct issue, &c., 329  
 Summary decision, 330  
 Special case, 331  
 Claimant not appearing barred, 332  
 When judgment to be final, 333  
 Power to order sale, 334  
 Discovery in, trial, and judgment, 335  
 Several creditors may be joined in one application, 336  
 Goods returned to claimant on giving security, 337  
 Sheriff may retake possession, 337
- INTERLOCUTORY ORDERS—**  
 Mandamus by, 7 ss 7—298  
 Injunction by, 7 ss 7—298  
 Receiver by, 7 ss 7—298  
 Preservation of property, 294  
 Sale of perishable goods, 295  
 Detention of property, inspection, samples, &c., 296  
 View by jury, 297  
 Payment into court to satisfy lien, 299  
 Interlocutory order not to prejudice appeal, 423  
 Costs of interlocutory applications, 433
- INSPECTION—**  
 Of documents, see discovery  
 Of subject of litigation, 296-297
- INJUNCTION—**  
 By interlocutory order, 7 ss 7
- Enforcement of judgment in, 261  
 Effect of judgment, 302  
 May be applied for before or after judgment, 303
- INQUIRY—**  
 Reference to officer or other person for, 169
- INTERPRETATION CLAUSES—**  
 457-458
- INTERROGATORIES—**  
 Failure to answer, 140  
 Service of order for, 141  
 Advocate neglecting to give client notice of, 142
- ISSUES—**  
 Settlement of by judge, 149  
 Trial of before discovery, 139  
 To determine liability of members of firm on execution against, 250  
 Where garnishee disputes liability, 289  
 Interpleader, 329  
 Fees to be paid on settlement of, 411½
- JURISDICTION—**  
 Abolition of former courts, 1  
 Rules as to exercise of, 5  
 Pending business, 4  
 Defendant out of, see writ of summons  
 Of court as to lunatics, 330  
 Trial where action arose or defendant resides, 449
- JURY—**  
 Either party may have questions of fact tried by, 113  
 Notice for, 113  
 Fees to Jurors, 113  
 Speeches of counsel to, 165  
 Inspection of subject matter of action by, 297
- JOINDER—**  
 Of causes of action, 51  
 When allowed, 51  
 Power to order separate trials, 51  
 Of parties, 34, 35  
 Of creditors in interpleader, 336
- JUDGMENT—**  
 Summary for debts where defendant appears, 71  
 Where part of claim admitted, 74  
 On confession of defence, 116  
 Declaratory, 120  
 By default non-appearance at trial, 161-2  
 For defendant on discontinuance, 123  
 Setting aside judgment in case of non-appearance at trial, 163  
 Amendment of errors in, 131  
 May be entered at or after trial, 163  
 Foreign, 201  
 Motion for when findings wrongly entered, 226

Where a wrong judgment entered on findings, 223  
 Setting down motion for after trial of issues, 223, 229  
 Motion for where entered wrongly on findings, 227  
 Limit of time for setting down motion for, 230  
 Powers of Court in dealing with, 231  
 Pending application turned into motion for, 232  
 Motion for by leave after service of writ, 233  
 Date of entry where given in court, 231  
 In other cases, 235  
 When single judge may deliver judgment of court, 236  
 Notice of to do specific act, 237  
 Duty of officers entering, 238  
 Production of order, etc., authority to clerk to enter, 239  
 By consent when defendant appears by advocate, 241  
 When defendant has not appeared or appears in person, 241  
 Satisfaction of, 242  
 Effect of service of judgment or order, 243  
 Conditional judgment nonperformance of condition, 244  
 For recovery of money execution in fifteen days, 245  
 For recovery of land, how enforced, 246  
 Conditional, enforcement of, 249  
 Against partners, execution on, 250  
 Judgments other than for money, enforcement of, 253

**JUDGE—**

To administer oaths of office to clerk and sheriff, 13  
 May deliver judgment of Court, when, 236  
 Power to inspect subject of litigation, 297  
 Power to dis-allow cross-examination, 167  
 May adjourn case for further consideration, 168  
 May leave either party to move for judgment, 163  
 Application to in chambers, how made, 392  
 Matters to be disposed of by, in chambers, 409  
 Power to order administration, etc., 401  
 May direct question of law to be raised for, opinion of Court, 153  
 May appoint guardian for lunatic, 344

**LAND—**

Service of writ, vacant possession, 26 ss 7  
 Appearance by person not named in writ for, 56  
 Appearance by landlord, 57  
 Person not named, may appear and defend by leave, 58

Appearance in action for, limiting defence, 59  
 Judgment by default of appearance 66  
 Judgment by default of appearance when action for land mesne profits, etc., 67  
 Execution against when may issue, 273  
 Sale of under execution when, 273  
 274  
 Sale of, by order of Court, 144

**LAW AND EQUITY—**

Administered concurrently, 6  
 Conflict between removed, 7  
 Points of law to be raised on pleadings, 117  
 Points of law in special case by consent, 157  
 Effect of decision of, 118  
 Points of law in special case by order of judge, 158

**LUNATIC—**

Service of writ on, 26 ss 10  
 Party to special case, 159  
 "Lunatic," in meaning of term, 338  
 Jurisdiction of Court as to, 339

**PROCEEDINGS IN LUNACY—**

To be by petition, 340  
 Presenting petition, evidence, etc., 341  
 To be served on alleged lunatic, 342  
 Commissions to examine witnesses as in ordinary suits, 343  
 Appointment of guardians for by judge, 344  
 Lunatic to be produced and examined, 345  
 Costs of application, 346, 359  
 Guardian to furnish bond, 347, ss 1  
 Inventory of estate to be filed by, 347, ss 2  
 Inventory to be verified, 347, ss 1  
 When mortgage or sale may be ordered, 348, 349  
 Removal of guardians, 351  
 Entitling of proceeding, 352  
 Guardian *ad litem* for lunatic may be appointed in chambers, 408

**LETTERS OF ADMINISTRATION—**

See probate, 376

**LIMITATION STATUTES OF—**

Express trust, 7 ss 1

**LIEN—**

Delivery of property subject to, on deposit in court, 299  
 Sale of infants' lands subject to, 373  
 On debts attached by garnishee summons, 290

**LEAVE TO SIGN JUDGMENT—**

When defendant appears, 71  
 Procedure by summons, 72  
 Shewing cause, 73  
 When part of claim admitted, 71

- When one defendant has good defence and the other has not, 75  
May be given unconditionally, 76
- LOSS**—  
Of writ of summons, 22  
Of bill of exchange when no defence, 96
- MANDAMUS** (Interlocutory)—  
When granted, 7 ss 7, 295  
Enforcement of judgment, 261  
Action of, claim to be annexed to writ, 338  
Judgment in action, 339  
Extension of time for performance, 339  
How judgment enforced on non-compliance, 390  
Protection of parties obeying, 391
- MARRIED WOMEN** (see husband and wife)—  
Party to special case, 159
- MINORS**—  
May sue for wages, 151
- MERGER**—  
Amendment of law as to, 7, ss 3
- MISJOINDER**—  
No matter to be defeated by, 39
- MORTGAGE**—  
On chattels and lands may be seized under execution, 263
- MORTGAGOR**—  
Suit for possession by, 7 ss 1
- MORTGAGEE**—  
May be sued by Mortgagor for trespass etc, 7 ss 1
- MOTION**—  
Notice of when required, 379  
Contents of Notice, 380  
To be served two clear days, 381  
When not served on all proper parties, 382  
Adjournment, 383  
Service on defendant who has not appeared, 384  
Service with writ, or before appearance, 385
- FOR JUDGMENT**—  
Where findings wrongly entered, 226  
Where judgment wrongly entered on findings, 227  
After trial of directed issues, 228  
Where some issues tried, 229  
Limit of time for setting down, 230  
General powers of Court on, 231  
A pending application may be turned into a motion for judgment or hearing of cause, 232  
Motion for by leave after service of writ, 233
- NOTICE**—  
Of facts pleaded, 11  
To third party, 44 and 45  
For jury trial, 113  
To produce (see discovery), 136
- To admit case, 143  
documents, 144  
facts, 145  
Of judgment to do specific act, 237  
Of sale lands under execution, 273-4  
perishable goods attached and in interpleader, 315, 377  
To sheriff to return writ, bring in body etc., 386  
Of motion when required, 379  
Contents of, 380
- NON-PROSECUTION**—  
Application to dismiss for, in case of death, &c., 50  
See also default.
- NON-JOINDER**—see "Parties"
- NOT GUILTY BY STATUTE**—  
Defence of preserved, 81
- OATH OF OFFICE**—  
Clerk to be registered, 9  
Sheriff, 9  
When administered, 13
- OFFICE COPY**—  
To be evidence, 173
- ORDER**—  
Amendment of errors and mistakes in, 151  
For production, 135  
May be enforced as a judgment, 258  
To be dated day of month and year, 387
- PAYMENT INTO COURT**—  
Generally, 99 to 109  
In satisfaction, 99  
To be specified in defence, 100  
In case of tender, 101  
With defence denying liability, 103 ss 1, 2, 3  
In two or more actions, 105  
To counter claim, 106  
Money recovered by or awarded to an infant, 108  
Investment of infant's money, &c., 110  
To satisfy lien, 209  
In interpleader, 321
- PAYMENT OUT OF COURT**—  
When paid into in satisfaction, 102  
In case of tender, 102  
Before delivery of defence, 102  
Where liability denied, 103  
Under order of Court, 107  
Of money of infant, 109  
Application for, to be made at chambers, 393
- PARTICULARS**—  
Further and better when ordered, 80  
Order for no stay, 80
- PARTIES**—  
Who may be joined as plaintiffs, 34  
Joining of defendants in case of doubt, 35  
Trustees, executors and administrators, 36  
See also "trustees," "executors," "administrators"

- Numerous persons in same interests, 37  
 Misjoinder, nonjoinder and adding of, 39  
 Striking out, 40  
 Partners, see "firm"  
 Infants, 43, see "infant"  
 Third parties, see "third parties" 44  
 Adding, in case of death, 49  
 Non-prosecution in case of death, 50  
 Minors may sue for wages, 451  
 Joining of in interpleader, 336
- PENDING BUSINESS—**  
 Transfer of, 1  
 Completed matters, 2  
 How concluded after passing of Ordinance, 3  
 Jurisdiction of Supreme Court in, 4
- PENDING APPLICATION—**  
 When may be turned into motion for judgment, 232
- PERPETUATION OF TESTIMONY, 198**
- PLEADING—**  
 Statement of claim, 15  
 Statement of defence, 32  
 Not guilty by statute, 81  
 Admission of allegations in not denied, 82  
 Conditions precedent need not be averred, 83  
 What must be pleaded, 84  
 Inconsistent pleadings, 85  
 Specific denial required, 86  
 Evasive denial, 87  
 Denial of contract, 88  
 Contents of documents, 89  
 Malice, fraud, notice, &c., 90, 91  
 Implied contracts, 92  
 Effect of burden of proof, 93  
 No technical objections to allowed, 94  
 Scandalous or embarrassing, 95  
 Loss of bill of exchange when no defence, 96  
 Printed or written, 98  
 Matters arising pending action, 114, 115, 116  
 Points of law, 117  
 Striking out, 119  
 Amendment of, 125  
 Time for service of amended, 130  
 Time for service generally, 133
- POSSESSION—**  
 Service of summons in cases of vacant, 26 ss 7  
 Writ of, 216  
 When it may issue, 230
- PRODUCTION—**  
 Of document by order, see discovery, 135  
 Notice of production for inspection, 136  
 Objections to, 139, 175.
- PROCEDURE—**  
 Action to commence by writ of summons, 13  
 In cases not provided for, 456
- PRAECIPE—**  
 For writ of execution, 251
- PROBATE—**  
 Of wills, or letters of administration, where made, effect of, 376  
 May be granted any person in twenty days from death, 377  
 Security by administrators, 378
- PROPERTY—**  
 Interim order for preservation of, 291
- PUBLIC OFFICERS—**  
 Actions against, 443
- REAL ESTATE—**  
 Allowance of income out of, 300  
 Sale of by order of Court or Judge, 411
- RECEIVER—**  
 Power to appoint, 7 ss 7  
 Interlocutory order for, 298  
 Security by, allowance, 304  
 Passing accounts, penalties for neglect, 305  
 Default of, 306  
 Account books to be deposited with clerk, 307  
 "Receiver," meaning of, 457.
- RECORD—**  
 Withdrawal of, 121  
 Costs occasioned by, 121  
 Of all former courts to become records of Supreme Court, 459
- RENEWAL OF WRIT—**  
 Of summons, 20  
 Evidence of, 21  
 Of execution, evidence of, 253
- REPLY—**  
 Counter-claim to counter-claim, 114  
 further defence arising after pleading, 115
- REPEALED ORDINANCES—**  
 Effect of, 459
- REPLEVIN, 318**  
 Affidavit for writ, 319  
 What to contain, 19, ss 1, 2, 3  
 Bond to sheriff, 320  
 service of writ how made, 321  
 return to writ what to contain, 332, ss 1, 2  
 When sheriff may break into place of concealment, 321
- REVENUE (Territorial)—**  
 Fees to paid by suitors towards, 441
- RULES OF LAW—**  
 Equitable relief to be given by Court, 6, ss 1  
 defences, 6 ss 2  
 counter-claim, 6 ss 3  
 interests generally, 8  
 Where conflict with equitable rules, 7 ss 8



- Applications in chambers to be by, 382, 393  
 Originating — in administrations, trusts, &c., 401  
 Meaning of "originating" summons, 457
- SCBPOENA**—  
 For attendance before examiner, 189  
 For attendance, witness in chambers, 195  
 Service of, 196  
 Affidavit of service of, 197
- SUPREME COURT**—  
 Jurisdiction,  
   Of High Court vested in, 1  
   Where cause heard and judgment not given, 2  
 Judgment of High Court enforced as judgment of, 3  
 Pending matters to be continued in, 3, 4  
 Rules of law governing, 6  
 Seals of, 455  
 Records of all abolished Courts to become records of, 459
- TESTIMONY**—  
 Action to perpetuate, 195
- THIRD PARTIES**—  
 Relief against if contribution or indemnity claimed, 41  
 Notice to be given to, 45  
 Plaintiff not to be delayed by questions between, 46  
 Order for determination of questions between, 45  
 Proceedings where interested debts garnished, 290, 291
- TIME**—  
 Stipulation in contracts as to, 7, ss 6  
 When writ of possession may issue, 280  
 For service, 395, 453  
 Computation of, 454  
 Of sittings of Court in Banc, 409  
 For furnishing security in appeal, 413  
 For service, notice motion in appeals, 415  
 For setting down cause for trial, 112
- TITLE**—  
 Of ordinance, 169
- TRESPASS**—  
 Mortgagor suing mortgagee for, 7 ss 1
- TRIAL**—  
 New trial, see *Court in Banc*  
 Notice of setting down for, 97  
 Setting down for after appearance, 112  
 Within what time, 112  
 Consequences of neglect to set down, 112  
 May be by jury, 113  
 Notice in such case, 113  
 Jury fees to be deposited with Clerk, 113  
 Non-appearance of defendant at, 161
- Non-appearance of plaintiff at, 162  
 Setting aside verdict, default appearance at, 163  
 Adjournment of, 164  
 Postponement of, 164  
 Restrictions on cross-examination at, 167  
 Entry of judgment at, 168  
 Further consideration, 168  
 Evidence at, 171  
 May be by affidavit, 171  
 Speeches of counsel at, 166  
 Evidence in another cause may be used at, 172
- TRUSTEE**—  
 Suing or sued on behalf of estate, 36
- TRUST**—  
 Statute of limitations not to apply to express, 7 ss 1
- WAGES**—  
 To extent of fifty dollars exempt from attachment, 286  
 Minors may sue for, 151
- WASTE**—  
 Equitable deemed also legal, 7 ss 2
- WITNESS**—  
 Examination of, *vide voce* in Court, 171  
 Before examiner, 174  
 Before judge in lunacy matters, 341  
                   infancy matters, 357, 364  
 Contempt of Court by, 176, 364  
 Conduct money at examination, etc., 177, 437  
 Arrest of, 182  
 Subpoena for attendance of, 189  
 Perpetuating testimony of, 198
- WRIT OF DELIVERY**—  
 Of property, 217  
 Assessed value in lieu of costs, 279
- WRIT OF POSSESSION**—  
 May issue after fifteen days from judgment, 289
- WRIT OF SUMMONS**—  
 Action to be commenced by, 15  
 Date and test of, 17  
 Concurrent writ of, 19  
 Currency of, renewal, 20  
 Loss of, 22  
 Service, by whom made, 25  
 Service of, anywhere in territories, 26, ss 1  
 Personal service of, when dispensed with, 26, ss 1  
 Service of on absent defendant, 26, ss 2  
 Against corporation, how served, 26, ss 3  
 Against partners or apparent firm, 26, ss 5, 6  
 To recover land, service of, vacant possession, 26 ss 7  
 Against husband and wife, service of, 26, ss 8  
 Against lunatic or infant, service of, 26, ss 10  
 Service of out of jurisdiction, when allowed, 27  
 Time for appearance to, 29  
 Setting aside service of, 65  
*Alias Process*, etc., may issue, 446

**SALE—**

- Of land under execution, 273, 274
- Of crops when, 272
- Of personal property after expiry of execution, 273
- Of perishable goods by order, 295
- Under will or settlement in administration, 391
- Of perishable goods, under attachment, 315
  - Do. in interpleader, 337
- Of lunatics' estate, 348, 349
- Of infants' estate, 367
- Of real estate by order of court or judge, 444

**SATISFACTION—**

- Of judgment, how signed, 212

**SEALS FOR SUPREME COURT, 455****SCANDALOUS MATTER—**

- Striking out from pleadings, costs 95
- Do. affidavit, costs, 212

**SECURITY—**

- Of clerk and sheriff to be registered, 9
- By receiver, 304
- By guardian, 317, 359
- By administrator, 378
- For costs of appeal, 413
- For costs generally, 429
- Amount of, 430
- Bond for, to whom given, 431

**SEIZURE—**

- Under executions, 266, 267, 268, 269
- Under attachment, absconding debtor, 310, 311

**SERVICE—**

- Where defendant resides in judicial district, 17 ss 1
- Where defendant resides in other district, 17 ss 1
- Address for, 18, 53
- Of summons by whom made, 25
- May be made anywhere in the territories, 26 ss 1
- Of summons to be personal, exception, 26 ss 1
- On agent or other representative, 26 ss 2
- Of summons against corporation, 26 ss 3
- Substitutional, 26 ss 4
- Of summons on partners or apparent firm, 26 ss 5, 6
- Of summons vacant possession 26 ss 27
- Of summons against husband and wife, 26 ss 8
- Of summons against infant or lunatic, 26 ss 9, 10
- Of summons out of territories, when allowed, 27
- Affidavit to obtain leave for such service, 28
- Setting aside service of writ or order for substitutional, 55
- Of subpoena, 196

- Effect of, notice, judgment, or order, 243
- Of attachment against absconding debtor, 310
- Of notice of motion, time for, 321
- Of pleadings, time, 453

**SET OFF—**

- How pleaded, when allowed, 78

**SHERIFF—**

- Security by, 9
- To take oath of office, 13
- Action against for breach of duty, 11
- To endorse time of receipt of executions, 264
- Sale by under execution, 266, 267, 273
- May sue on securities seized, 269
- Bond to be given in such case to, 269
- Effect of transfer of securities to creditor by, 270
- To pay over money recovered, 271
- Notice of sale of lands by, 273
- Justified in paying out on written order, when, 277
- Seizure by under attachment, 310, 311
- Sale of perishable goods by, 315, 337
- Interpleader by, 323 ss 2
- Notice to bring in body, &c., committal in default, 386
- Costs of, 435
- To post tariff in conspicuous place, 436
- Fees for attendance at regular sittings, 441
- "Sheriff," meaning of, 457

**SPECIAL CASE—**

- By consent of parties, 157
- How stated and effect of, 157
- Without course of order of Judge, 158
- Persons under disability, 159
- Agreement as to payment of money and costs, 160
- In interpleader, 331

**SPECIFIC PERFORMANCE—**

- Enforcement of, 261

**STATEMENT OF CLAIM—**

- To be furnished in duplicate when issuing writ, 15
- To contain material facts, not evidence, 77
- Amendment of, 125

**STATUTE—**

- Plea of not guilty by, 81

**STAY OF PROCEEDINGS—**

- When advocate's name used without authority, 23
- Order for particulars, no stay, 80
- Of execution, 260
- Of interpleader proceedings, 323

**SUBPOENA, see writ of summons—**

- To set aside appearance in action for debts, 71, 72
- Showing cause to, 73
- Interpleader, 327

## GENERAL INDEX.

*The numerals refer to pages.*

- ADMINISTRATION—  
of Civil Justice, 5.
- AGRICULTURAL—  
Incorporation of Agricultural Societies, 185.
- ANIMALS, HERDING OF—  
Ordinance 20 of 1885 repealed and Ordinance No. 1 of 1884 amended, 221.
- BILLIARD—  
Ordinance No. 8 of 1883, amended, 218.
- BULLS—  
Ordinance 13 of 1881, amended, 222.
- CALGARY—  
Municipal matters in Town of, 2.
- CEMETETERIES—  
Incorporation of companies for establishment of, 199.
- CIVIL JUSTICE—  
Administration of, 5.
- COMPANIES—  
Incorporation of Joint Stock Companies, 140.
- CONGREGATIONS—  
Lands held in trust for, 173.
- CONVEYANCE—  
Of real estate by married women, 178.
- FENCES—  
Ordinance No. 29 of 1884 further amended, 223.
- FIRE DISTRICTS, 214.
- FIRE—  
Ordinance No. 21 of 1885, respecting Prairie Fires amended, 219.
- GAME—  
Ordinance No. 8 of 1883, amended, 221.
- HERDING OF ANIMALS—(see animals.) 221
- HOSPITAL—  
Incorporation of Regina General Hospital, 225.
- JOINT STOCK COMPANIES—  
Incorporation of, 140.
- JURIES—  
Respecting, 170.
- JUSTICE—  
Administration of Civil Justice, 5.
- LANDS—  
Holding of lands in trust for Religious Societies and congregations, 173.
- MARRIED WOMEN—  
Conveyance of real estate by, 178.
- MUNICIPAL—  
Municipal Ordinance of 1885 amended, 180.  
Respecting Municipal matters in Town of Calgary, 2.
- MUNICIPALITY OF REGINA—  
Certain by-law legalized, 233.
- MUNICIPALITY OF SOUTH QU'APPELLE—  
Certain by-laws legalized, 230.
- POISONS—  
Ordinance No. 12 of 1885 amended, 220.
- PRAIRIE FIRES—  
Ordinance No. 21 of 1885 amended, 219.
- QU'APPELLE—  
By-laws of Municipality of South Qu'Appelle legalized, 230.
- REGINA GENERAL HOSPITAL—  
Incorporated, 225.
- REGINA—  
Bylaw of Municipality of Town of Regina legalized, 233.
- REAL ESTATE—  
Conveyance of by married women, 178.
- SCHOOLS—  
School Ordinance of 1885 amended, 198.
- TRUST—  
Holding of lands in trust for Religious Societies and Congregations, 173.
- WOMEN—  
Conveyance of real estate by married women, 178.















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